

Gazette officielle du Québec

(English Edition)

Part 2

Laws and
Regulations

Volume 123

16 January
1991

No. 3

Québec 



Gazette officielle du Québec

Part 2 Laws and Regulations

Volume 123
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Legal deposit — 1st Quarterly 1968
Bibliothèque nationale du Québec
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NOTICE TO READERS

The *Gazette officielle du Québec* (Laws and Regulations) is published under the authority of the Act respecting the Ministère des Communications (R.S.Q., c. M-24) and the Regulation respecting the *Gazette officielle du Québec* (O.C. 3333-81 dated 2 December 1981 amended by O.C. 2856-82 dated 8 December 1982 and O.C. 1774-87 dated 24 November 1987).

Part 2 of the *Gazette officielle du Québec* is published at least every Wednesday under the title "LOIS ET RÈGLEMENTS". If a Wednesday is a legal holiday, the Official Publisher is authorized to publish on the preceding day or on the Thursday following such holiday.

1. Part 2 contains:

1° Acts assented to, before their publication in the annual collection of statutes;

2° proclamations of Acts;

3° regulations made by the Government, a minister or a group of ministers and of Government agencies and semi-public agencies described by the Charter of the French language (R.S.Q., c. C-11), which before coming into force must be approved by the Government, a minister or a group of ministers;

4° Orders in Council of the Government, decisions of the Conseil du trésor and ministers' orders whose publication in the *Gazette officielle du Québec* is required by law or by the Government;

5° regulations and rules made by a Government agency which do not require approval by the Government, a minister or a group of ministers to come into force, but whose publication in the *Gazette officielle du Québec* is required by laws;

6° rules of practice made by judicial courts and quasi-judicial tribunals;

7° drafts of the texts mentioned in paragraph 3 whose publication in the *Gazette officielle du Québec* is required by law before their adoption or approval by the Government.

2. The English edition

The English edition of the *Gazette officielle du Québec* is published at least every Wednesday under the title "Part 2 — LAWS AND REGULATIONS". When Wednesday is a holiday, the Official Publisher is authorized to publish it on the preceding day or on the Thursday following such holiday.

The English version contains the English text of the documents described in paragraphs 1, 2, 3, 5, 6 and 7 of section 1.

3. Rates

1. Subscription rates

Part 2 (French) 77 \$ per year
English edition 77 \$ per year

2. Rates for sale separate numbers

Separate numbers of the *Gazette officielle du Québec* sell for 4,40 \$ a copy.

For information concerning the publication of notices, please call:

Gazette officielle du Québec
1279, boul. Charest Ouest, 9^e étage
Québec G1N 4K7
Téléphone: (418) 644-7795

Offprints or subscription only:

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Ministère des Communications
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Coming into force of Acts

Gouvernement du Québec

O.C. 1784-90, 19 December 1990

An Act respecting The Laurentian Mutual Management Corporation and The Laurentian Life Insurance Company Inc.

— Coming into force

COMING INTO FORCE of the Act respecting The Laurentian Mutual Management Corporation and The Laurentian Life Insurance Company Inc. (1990, Private Bill 253)

WHEREAS the Act respecting The Laurentian Mutual Management Corporation and The Laurentian Life Insurance Company Inc. (1990, Private Bill 253) was assented to on 22 June 1990;

WHEREAS sections 32 to 34 of that Act came into force on 22 June 1990;

WHEREAS section 35 of that Act prescribes that sections 1 to 31 come into force on a date fixed by the Government after the Inspector General of Financial Institutions authorizes The Laurentian Life Insurance Company Inc. to transfer the assets referred to in section 33;

WHEREAS the Inspector General of Financial Institutions has authorized that transfer of assets;

WHEREAS it is expedient that the date of coming into force of sections 1 to 31 be fixed at 1 January 1991;

IT IS ORDERED, therefore, on the recommendation of the Minister for Finance:

THAT sections 1 to 31 of the Act respecting The Laurentian Mutual Management Corporation and The Laurentian Life Insurance Company Inc. come into force on 1 January 1991.

BENOÎT MORIN,
Clerk of the Conseil exécutif

4867

Gouvernement du Québec

O.C. 1785-90, 19 December 1990

Revised Statutes of Québec

— Loose-leaf edition updating to 1 March 1990

— Coming into force

COMING INTO FORCE of the text of the copy of the updating to 1 March 1990 of the loose-leaf edition of the Revised Statutes of Québec

WHEREAS the Official Publisher has completed the printing of the updating to 1 March 1990 of the loose-leaf edition of the Revised Statutes of Québec;

WHEREAS a copy of the updating to 1 March 1990 of the loose-leaf edition of the Revised Statutes of Québec has been sent to the Lieutenant-Governor, who has caused it to be deposited in the office of the Secretary General of the National Assembly of Québec, attested to by his signature and that of the Minister of Justice, the foregoing in accordance with the Act respecting the consolidation of the statutes and regulations (R.S.Q., c. R-3);

IT IS ORDERED, therefore, upon the recommendation of the Minister of Justice:

THAT, pursuant to the Act respecting the consolidation of the statutes and regulations (R.S.Q., c. R-3), the text of the copy of the updating to 1 March 1990 of the loose-leaf edition of the Revised Statutes of Québec, attested to by the signatures of the Lieutenant-Governor and the Minister of Justice and deposited in the office of the Secretary General of the National Assembly of Québec, come into force on 31 December 1990 and have force of law with the reservation that any provision of an Act comprised in the Revised Statutes of Québec not yet in force on 30 December 1990 pursuant to the provisions of that Act not be brought into force by this Order in Council but come into force only on the date fixed in accordance with the Act containing that provision.

BENOÎT MORIN,
Clerk of the Conseil exécutif

4868

Regulations

Gouvernement du Québec

O.C. 1766-90, 19 december 1990

The Animal Health Protection Act
(R.S.Q., c. P-42)

Sale of livestock by auction — Amendment

Regulation respecting the sale of livestock by auction (Amendment)

WHEREAS under subparagraphs *b* and *c* of section 45 of the Animal Health Protection Act (R.S.Q., c. P-42) the Government may make regulations to determine the conditions for operation of an establishment used for the sale of livestock by auction and may regulate the organization, keeping and operation of this type of establishment;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of the Regulation attached hereto was published in Part 2 of the *Gazette officielle du Québec* on 11 July 1990, with a notice that it could be submitted to the Government for adoption upon the expiry of 45 days following that publication;

WHEREAS it is expedient to make the Regulation without amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Agriculture, Fisheries and Food:

THAT the Regulation respecting the sale of livestock by auction (Amendment), attached hereto, be made.

BENOÎT MORIN,
Clerk of the Conseil exécutif

Regulation respecting the sale of livestock by auction (Amendment)

Animal Health Protection Act
(R.S.Q., c. P-42, s. 45, subpars. *b* and *c*)

1. The Regulation respecting the sale of livestock by auction (R.R.Q., 1981, c. P-41, r. 4), amended by the Regulations made by Orders in Council 1262-86 dated 20 August 1986 and 1135-87 dated 22 July 1987 is further amended by revoking section 39.

2. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

4866

Gouvernement du Québec

O.C. 1794-90, 19 December 1990

An Act respecting manpower vocational training and qualification
(R.S.Q., c. F-5)

— Electricians — Pipe fitters — Elevator mechanics — Electrical machinery operators — In sectors other than the construction industry — Amendment

CONCERNING the Regulation amending the Regulation respecting the vocational training and qualification of manpower, covering electricians, pipe fitters, elevator mechanics and electrical machinery operators in sectors other than the construction industry

WHEREAS under subparagraph *h* of section 30 of the Act respecting manpower vocational training and qualification (R.S.Q., c. F-5), the Government may fix the duties exigible for the taking of examinations and the issue or renewal of the qualification certificate;

WHEREAS the Government adopted the Regulation respecting the vocational training and qualification of manpower, covering electricians, pipe fitters, elevator mechanics and electrical machinery operators in sectors other than the construction industry (R.R.Q., 1981, c. F-5, r. 4);

WHEREAS it is expedient to amend the Regulation;

WHEREAS under sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), the text of the Regulation attached to this Order in Council was published in Part 2 of the *Gazette officielle du Québec* of 9 May 1990 with a notice that it could be adopted by the Government upon the expiry of the 45-day period following publication;

WHEREAS it is expedient to adopt the Regulation as amended;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Manpower, Income Security and Skills Development:

THAT the Regulation amending the Regulation respecting the vocational training and qualification of manpower, covering electricians, pipe fitters, elevator mechanics and electrical machinery operators in sectors other than the construction industry, attached to this Order in Council, be adopted.

BENOÎT MORIN,
Clerk of the Conseil exécutif

Regulation respecting the vocational training and qualification of manpower, covering electricians, pipe fitters, elevator mechanics and electrical machinery operators in sectors other than the construction industry

An Act respecting manpower vocational training and qualification
(R.S.Q., c. F-5, s. 30)

1. The Regulation respecting the vocational training and qualification of manpower, covering electricians, pipe fitters, elevator mechanics and electrical machinery operators in sectors other than

the construction industry (R.R.Q., 1981, c. F-5, r. 4) is amended at Schedule B by replacing:

1° under the subtitle Apprenticeship booklet, the numbers "5" and "2" by the numbers "25" and "10";

2° under the subtitle Examinations, the numbers "10" and "13" by the numbers "25" and "20";

3° under the subtitle Qualification certificate, the numbers "5" and "2" by the numbers "20" and "10";

4° under the subtitle Certificate of qualification prior to 20 October 1971, the numbers "2" by the numbers "10";

5° under the subtitle Attestation of experience, the number "2" by the number "10".

2. This regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.
4869

Gouvernement du Québec

O.C. 1795-90, 19 December 1990

An Act respecting the Commission des affaires sociales (R.S.Q., c. C-34)

Commission des affaires sociales

— Rules of proof, procedure and practice

— Amendment

Rules of proof, procedure and practice of the Commission des affaires sociales (Amendment)

WHEREAS under section 35 of the Act respecting the Commission des affaires sociales (R.S.Q., c. C-34), the Commission des affaires sociales may, by order, make rules of proof, procedure and practice applicable to the conduct of the cases before the Commission;

WHEREAS every order made under that section must be approved by the Government;

WHEREAS in accordance with that section, the Government approved the Rules of proof, procedure and practice of the Commission des affaires sociales (R.R.Q., 1981, c. C-34, r. 1);

WHEREAS the Commission des affaires sociales has made, by order, the Rules of proof, procedure and practice of the Commission des affaires sociales (Amendment), as they appear in the true copy of an extract from the minutes of a special meeting held on 27 September 1989;

WHEREAS in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), a draft regulation entitled Rules of proof, procedure and practice of the Commission des affaires sociales (Amendment) was published in Part 2 of the *Gazette officielle du Québec* of 21 March 1990 with a notice that it could be submitted to the Government for approval upon the expiry of 45 days following that publication;

WHEREAS it is expedient to approve the Regulation without amendment;

IT IS ORDERED, therefore, upon the recommendation of the Minister of Manpower, Income Security and Skills Development:

THAT the Rules of proof, procedure and practice of the Commission des affaires sociales (Amendment), the text of which is attached hereto, be approved;

BENOÎT MORIN,

Clerk of the Conseil exécutif

Rules of proof, procedure and practice of the Commission des affaires sociales (Amendment)

An Act respecting the Commission des affaires sociales (R.S.Q., c. C-34, s. 35)

1. The Rules of proof, procedure and practice of the Commission des affaires sociales (R.R.Q., 1981, c. C-34, r. 1), as amended by the Regulation approved by Order in Council 1555-87 dated 7 October 1987, are further amended by inserting the words "and in the automobile insurance division" after the word "division" in section 26.1.

2. The Rules are amended by inserting the following section after section 31:

"31.1 Where, under the third paragraph of section 30, the Commission orders the referral of a matter to the court contemplated in section 222 of the Act respecting the Québec Pension Plan (R.S.Q., c. R-9), the secretary must without delay send to the Minister of Revenue, by registered or certified mail, or by any other means authorized by the Commission, a certified copy of the order and a copy of the documents contained in the record."

3. These Rules come into force on the thirtieth day following the date of their publication in the *Gazette officielle du Québec*.

4870

Draft Regulations

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Dentists

- Business of the Bureau and general meetings
- Amendments

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the "Regulation respecting the business of the Bureau and general meetings of the Ordre des dentistes du Québec (Amendment)" made by the Bureau of the Ordre des dentistes du Québec, the text of which appears below, may be submitted for approval by the Government upon the expiry of 45 days following this publication.

Any person having comments to make is asked to transmit them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, complexe de la place Jacques-Cartier, 320, rue Saint-Joseph Est, 1^{er} étage, Québec (Québec), G1K 8G5. These comments will be forwarded by the Office to the Minister responsible for the administration of legislation concerning the professions; they may also be forwarded to the Ordre that made the Regulation as well as to the persons, departments and agencies concerned.

THOMAS J. MULCAIR,
Chairman of the Office
des professions du Québec

Regulation respecting the business of the Bureau and general meetings of the Ordre des dentistes du Québec (Amendment)

Professional Code
(R.S.Q., c. C-26, s. 93, par. a, and s. 94, pars. a and b)

1. The Regulation respecting the business of the Bureau and general meetings of the Ordre des dentistes du Québec (R.R.Q., 1981, c. D-3, r. 2) is amended by substituting the following section for section 3.06:

"3.06 Where urgent and unforeseen expenses not provided for in the budget are required between meetings of the Bureau, the executive committee may authorize any expenditure up to \$10 000 with a view to ensuring the proper administration of the current affairs of the Order."

2. The Regulation is amended by inserting the following sections after section 4.01:

"4.01.01 A notice of general meeting must indicate the date, time and place and include the proposed agenda of the meeting.

4.01.02 A general meeting of the members of the Order shall be convened by the secretary by means of a notice of convocation sent by mail at least 30 days prior to the date of the meeting to each member of the Order and to each director appointed under section 78 of the Code.

In the case of a special general meeting, the secretary of the Order, subject to section 106 of the Code, may send the notice of convocation less than 30 days before the date of the meeting.

4.01.03 Notwithstanding the first paragraph of section 4.01.02, the annual general meeting of the members may be convened by

the secretary of the Order by means of a notice of convocation that complies with section 4.01.01, published or inserted in a publication which the Order sends to each of its members. The notice must cover at least 2 columns and be entitled "NOTICE OF ANNUAL GENERAL MEETING".

In such case, at least 30 days before the date of the meeting, the secretary of the Order shall send a copy of the publication in which the notice is inserted or published, to each director appointed under section 78 of the Code. Where appropriate, he shall include any other document sent to the members for the purpose of the meeting."

3. The Regulation is amended by substituting the figure "50" for the figure "75" in the first sentence of section 4.02.

4. The Regulation is amended by inserting the following section after section 4.08:

"4.09 Any member of the Order wishing a matter be placed on the agenda of a general meeting may submit the matter to the secretary of the Order 30 days before the meeting of the Bureau preceding the general meeting."

5. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

4879

Draft Regulation

An Act respecting market intermediaries
(1989, c. 48)

Financial Planners

- Issuance of diplomas, their equivalents and recognition of training considered equivalent

The Minister for Finance gives notice, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the By-law of the Institut québécois de planification financière respecting the conditions governing the issuance of diplomas, their equivalents and the recognition of training considered equivalent, adopted by the Institut and the text of which appears below, will be submitted to the Government for approval upon the expiry of 45 days following the publication of this notice in the *Gazette officielle du Québec*. The Government may approve it with or without amendments.

Any person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to Mrs. Louise Robic, Minister for Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec), G1R 5L3, with a copy to the Inspector General of Financial Institutions, 800, place d'Youville, 9^e étage, Québec (Québec), G1R 4Y5.

LOUISE ROBIC,
Minister for Finance

By-law of the Institut québécois de planification financière respecting the conditions governing the issuance of diplomas, their equivalents and the recognition of training considered equivalent

An Act respecting market intermediaries
(1989, c. 48, ss. 29 and 30)

DIVISION I GENERAL

1. To obtain a financial planner's diploma, a person must, in addition to the other conditions prescribed by this By-law:

(1) have taken and passed the courses given by the Institut québécois de planification financière or have been exempted from them;

(2) have obtained from the Institute recognition that a diploma held by him certifies that he has acquired knowledge equivalent to that acquired by a person who has taken the courses and passed the examinations given by the Institute; or

(3) have obtained from the Institute recognition that the training he has had shows that he has acquired knowledge equivalent to that acquired by a person who has taken the courses and passed the examinations given by the Institute.

DIVISION II FINANCIAL PLANNER'S DIPLOMA

2. To be admitted to the program of studies prepared by the Institute, a person must show that he has:

(1) a diploma of college studies;

(2) a certificate equivalent to a diploma of college studies; or

(3) training enabling him to acquire knowledge equivalent to that acquired by a holder of a diploma of college studies.

3. The Institute shall issue a financial planner's diploma to a person who has taken the courses and passed the examinations in the program of studies prepared by the Institute. The program of studies contains 300 hours of training distributed as follows:

(1) Preamble

(a) Psychology and communications

(b) Introduction to financial planning 20 hours

(2) Economics and mathematics

(a) Financial economics

(b) Financial institutions

(c) Financial mathematics 30 hours

(3) Accounting

(a) Principles

(b) Personal financial statements and personal financial planning 45 hours

(4) Law

(a) Law of persons, family and successions

(b) Business law 45 hours

(5) Taxation

(a) Principles of taxation

(b) Fiscal and estate planning

(c) Taxation relating to financial products 70 hours

(6) Financial products

(a) Insurance and pensions

(b) Investment strategy and financial products 50 hours

(7) Program synthesis 40 hours

4. Notwithstanding section 3, a person may be awarded a financial planner's diploma without having taken all the courses or passed all the examinations to the extent that he has been exempted from them by the Institute.

A person shall be exempted from a course if he

(1) has already passed a college or university level course enabling him to acquire knowledge equivalent to that taught in the course given by the Institute; or

(2) has had training enabling him to acquire knowledge equivalent to that taught in the course given by the Institute.

A person who shows that he has already passed a college or university level course enabling him to acquire knowledge equivalent to that provided by a course given by the Institute shall be exempted from writing the examination for that course.

For the purpose of the second and third paragraphs, where the course or examination for which an exemption is requested was given 5 years or more before the request, the exemption may be denied if the knowledge acquired by the person no longer corresponds to the knowledge now taught.

The exemption must be granted if the person's relevant work experience and subsequent training have enabled him to obtain the required knowledge.

DIVISION III DIPLOMA EQUIVALENCE

5. To be granted a diploma equivalence by the Institute recognizing a diploma certifying acquired knowledge equivalent to the knowledge acquired by a person who has taken the courses and passed the examinations given by the Institute, and applicant must

(1) apply in writing to the Institute;

(2) furnish the following documents:

(a) the transcript of his university studies including course descriptions;

(b) proof that he has obtained a university degree;

(c) proof of official recognition of his degree;

(d) proof of his membership in a professional corporation mentioned in section 6;

(e) certification of his relevant work experience.

6. To be granted a diploma equivalence, a person must meet one of the following conditions:

(1) he must hold a bachelor's degree comprising at least 90 credits in law or administration, or a master's degree in law or administration, and must have 5 years of uninterrupted experience in an area or an activity directly related to financial planning. The person must be a member of one of the following professional corporations:

(a) the Corporation professionnelle des avocats du Québec;

- (b) the Corporation professionnelle des notaires du Québec;
- (c) the Corporation professionnelle des comptables agréés du Québec;
- (d) the Corporation professionnelle des comptables en management accrédités du Québec;
- (e) the Corporation professionnelle des comptables généraux licenciés du Québec;
- (f) the Corporation professionnelle des administrateurs agréés du Québec;

(2) he must hold a bachelor's degree and a master's degree in taxation and have 5 years of uninterrupted experience in an area or an activity directly related to financial planning;

(3) he must hold a bachelor's degree comprising at least 90 credits, a certificate in insurance of persons issued by a university, and must be a member in good standing of the Association des intermédiaires en assurance de personnes du Québec. In addition, the person must have 5 years of uninterrupted experience in an area or activity directly related to financial planning.

For the purpose of the first paragraph, a university degree may have been obtained in Québec or elsewhere.

For the purpose of subparagraphs 1, 2 and 3 of the first paragraph, a year of uninterrupted experience is a year that is uninterrupted by pregnancy, illness or accident for a maximum of 12 months. In such cases, the person must attach a medical certificate to the application.

DIVISION IV TRAINING EQUIVALENCE

7. To be granted a diploma by the Institute recognizing training showing acquired knowledge equivalent to the knowledge acquired by a person who has taken the courses and passed the examinations given by the Institute, an applicant must take and pass the equivalence training examinations administered by the Institute.

8. A person shall be admitted to the equivalence examination if he applies to the Institute in writing and shows by means of the appropriate documents that he

(1) has 10 years of professional experience in an area or activity related to financial planning;

(2) has had 5 years of uninterrupted experience during the last 10 years in an area of activity directly related to financial planning.

A person shall also be admitted to the equivalence examination if he applies in writing to the Institute and shows by means of the appropriate documents that at the time of coming force of this paragraph, he

(1) holds any of the following titles:

(a) Chartered Life Underwriter (C.L.U.) recognized or awarded in accordance with section 95 of the Act respecting market intermediaries (1989, c. 48);

(b) Chartered Financial Consultant (C.F.C.) awarded by the Life Underwriters Association of Canada;

(c) Chartered Financial Planner (C.F.P.) awarded by the Canadian Institute of Financial Planning;

(d) Registered Financial Planner (R.F.P.) awarded by the Canadian Association of Financial Planners;

(e) Chartered Financial Analyst (C.F.A.) awarded by the Institute of Chartered Financial Analysts;

(2) has 5 years of professional experience in an area or activity related to financial planning;

(3) has had 2 years of uninterrupted experience during the last 5 years in an area or activity directly related to financial planning.

For the purpose of subparagraph 2 of the first paragraph, a year of experience interrupted for no longer than 12 months by pregnancy, illness or accident is deemed to be uninterrupted, and for the purpose of subparagraph 3 of the second paragraph, a year of experience interrupted for no longer than 6 months by pregnancy, illness or accident is deemed to be uninterrupted. In such cases, the person must attach a medical certificate to the application for admission to the equivalence examination.

DIVISION V CONTRIBUTIONS

9. The annual contribution, fixed by the Institute, that a person must pay to retain his title of financial planner must be paid in a single payment not later than the first January of each year.

DIVISION VI FINAL

10. Sections 7 and 8 of this By-law come into force on (indicate the date of coming into force of the second sentence of the first paragraph of section 29 of the Act respecting market intermediaries (1989, c. 48)).

Sections 1 to 6 and 9 of this By-law come into force on (indicate the date of coming into force of the first sentence of the first paragraph of section 29 and of its second paragraph).

Section 7 and the first and third paragraphs of section 8 remain in force until (indicate the date 5 years after the coming into force of those sections).

The second paragraph of section 8 remains in force until (indicate the date 2 years after the coming into force of that section).

11. This By-law shall be published in the *Gazette officielle du Québec*.
4877

Draft Regulation

Professional Code
(R.S.Q., c. C-26)

Hearing-aid acousticians

— Professional liability insurance — Amendment

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the "Regulation respecting professional liability insurance of hearing-aid acousticians", made by the Bureau of the Corporation professionnelle des audioprothésistes du Québec, the text of which appears below, may be submitted for approval by the Government upon the expiry of 45 days following this publication.

Any person having comments to make is asked to transmit them, before the expiry of the 45-day period, to the Chairman of the Office des professions du Québec, complexe de la place Jacques-Cartier, 320, rue Saint-Joseph Est, 1^{er} étage, Québec (Québec), G1K 8G5. These comments will be forwarded by the Office to the Minister responsible for the administration of legislation concerning the professions; they may also be forwarded to the professional corporation that made the Regulation as well as to the persons, departments and agencies concerned.

THOMAS J. MULCAIR,
Chairman of the Office
des professions du Québec

Regulation respecting professional liability insurance of hearing-aid acousticians

Professional Code
(R.S.Q., c. C-26, s. 94, subpar. 1)

DIVISION I LIABILITY INSURANCE

1. A hearing-aid acoustician must take out insurance coverage for any liability incurred owing to fault or negligence committed in the practice of his profession.

2. Notwithstanding section 1, a hearing-aid acoustician is not obliged to take out such coverage if he is entered on the roll of the Ordre des audioprothésistes and if he performs under no circumstances any of the acts mentioned in section 7 of the Hearing-aid Acousticians Act (R.S.Q., c. A-33). In that case, he shall send to the secretary of the Order an application for exemption containing at least the information required by Schedule I.

3. Schedule I must be sent to the secretary as soon as the hearing-aid acoustician ceases to perform one of the acts mentioned in section 7 of the Hearing-aid Acousticians Act.

4. The insurance contract must provide that:

(1) the minimum coverage shall be \$1 000 000 per claim and \$5 000 000 for the aggregate of the claims respecting the period of coverage;

(2) the insurer undertakes to pay on behalf of the insured person, up to the amount of the coverage, any amount that the insured person may be legally bound to pay to a third party as damages in respect of a claim submitted during the period covered in respect of services rendered by the insured person, his employees or the trainees working under his responsibility in the performance of their duties, or failure to render such services;

(3) the insurer's obligation will cover all claims submitted in the five years following the period of coverage during which a hearing-aid acoustician dies;

(4) the insurance covers services rendered or the failure to render services effective from the coming into force of the insurance contract up to the end of the period of coverage;

(5) the obligation, on the insurer's part, to take up the defence of the insured person and assume his defence in any action instituted against him; the costs and expenses of the proceedings against the insured person, including those of the defence and the interest upon the amount awarded, shall be the responsibility of the insurer in addition to the amounts prescribed in the first paragraph;

(6) the insurer undertakes to issue, for the subsequent five years, to a hearing-aid acoustician ceasing absolutely to practise

his profession during a period covered by the insurer, an insurance policy complying, *mutatis mutandis*, with the provisions of this Regulation and covering services rendered by the hearing-aid acoustician, his employees or trainees working under his responsibility in the performance of their duties, or failure to render such services, prior to the cessation of practice;

(7) a hearing-aid acoustician ceasing to practise must, prior to the cessation of practice, make an insurance contract with an insurance company for a period of at last five years, complying, *mutatis mutandis*, with the provisions of this Regulation and covering services rendered by the hearing-aid acoustician, his employees or trainees working under his responsibility in the performance of their duties, or failure to render such services, before the cessation of practice.

(8) the insurer undertakes to give notice to the Order or to the insured person, as the case may be, within the 30 days preceding the variation, cancellation or non-renewal of the insurance contract;

(9) the insurer undertakes to notify the Order where he pays on behalf of a hearing-aid acoustician an amount of money owing to fault or negligence committed in the practice of his profession.

5. The exclusions that may be provided for in the insurance contract are not available against a third party covered in paragraph 2 of section 4 to whom the insured person is legally bound to pay damages.

DIVISION II GROUP INSURANCE POLICY

6. Where the Order has taken out a liability insurance policy complying with this Regulation on behalf of all or some of its members, a hearing-aid acoustician must, for the purposes of section 1, participate in the said group insurance policy.

An insurance certificate must be issued to every hearing-aid acoustician participating in an insurance policy taken out by the Order and a copy of that insurance policy must be provided to him upon application in writing.

DIVISION III GENERAL

7. Unless he is insured under section 6, a hearing-aid acoustician must, prior to 1 November each year, provide the secretary of the Order with evidence that he holds an insurance policy in force for a period of 12 months effective from that date and that it complies with this Regulation.

Where a hearing-aid acoustician registers or is registered again on the roll on a date other than 1 November, he shall provide the secretary of the Order with evidence that he holds an insurance policy in force at least until 1 November next following and that it complies with this Regulation.

8. This Regulation comes into force on the fiftieth day following the date of its publication in the *Gazette officielle du Québec*.

SCHEDULE I (ss. 2 and 3)

APPLICATION FOR EXEMPTION

I am entered on the roll of the Order and under no circumstances perform any of the acts specified in section 7 of the Hearing-aid Acousticians Act (R.S.Q., c. A-33).

I agree to notify the secretary immediately and to send him evidence that I hold an insurance policy complying with this Regulation if I begin to perform any of the acts specified in section 7 of the Hearing-aid Acousticians Act (R.S.Q., c. A-33).

SWORN or SOLEMNLY DECLARED before me at _____,

this _____ day of _____
month year

Commissioner for oaths or
person having received solemn
affirmation

4980

Signature of hearing-aid
acoustician

Draft Regulation

An act respecting market intermediaries
(1989, c. 48)

Insurance brokers

- Associate insurance brokers
- Chartered insurance brokers
- Criteria for obtaining the title

The Minister for Finance gives notice, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the By-law respecting criteria for obtaining and withdrawing the title of associate insurance broker and the title of chartered insurance broker, adopted by the Association des courtiers d'assurances de la province de Québec and the text of which appears below, will be submitted to the Government for approval upon the expiry of 45 days following the publication of this notice in the *Gazette officielle du Québec*. The Government may approve it with or without amendments.

Any person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to Mrs. Louise Robic, Minister for Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec), G1R 5L3, with a copy to the Inspector General of Financial Institutions, 800, place d'Youville, 9^e étage, Québec (Québec), G1R 4Y5.

LOUISE ROBIC,
Minister for Finance

By-Law respecting criteria for obtaining and withdrawing the title of associate insurance broker and the title of chartered insurance broker

An Act respecting market intermediaries
(1989, c. 48)

DIVISION I GENERAL PROVISIONS

1.01 This by-law is adopted under sections 116 and 125, (4) of An Act respecting market intermediaries (1989, c. 48).

1.02 In this by-law, unless the context indicates otherwise, the following expressions mean:

(a) "Association": the Association des courtiers d'assurances de la province de Québec;

(b) "Board": the Board of Directors of the Association des courtiers d'assurances de la province de Québec;

(c) "Course": a training course determined by the Board for the purpose of obtaining a title awarded by the Association to its members;

(d) "Act": An Act respecting market intermediaries (1989, c. 48) with its present and future amendments;

(e) "Member": a person or partnership that meets the membership conditions determined under a by-law of the Association;

(f) "Title": either of the titles referred to in section 116 of the Act;

1.03 In this by-law, unless the context indicates otherwise, the definitions in An Act respecting market intermediaries (1989, c. 48) apply.

1.04 The Interpretation Act (R.S.Q., c. I-16) with its present and future amendments, applies to this by-law.

DIVISION II

THE OBTAINING OF THE TITLE OF "ASSOCIATE INSURANCE BROKER" (A.I.B.)

2.01 The Association awards the title of "associate insurance broker" (A.I.B.) to a market intermediary in damage insurance who is a member thereof and who:

(a) has acted as a broker in damage insurance for at least twelve (12) consecutive months;

(b) holds a certificate as a broker in personal lines and commercial lines insurance;

(c) has taken the courses and successfully passed the examinations pertaining to the acquisition of professional skills specific to brokerage.

2.02 The Association issues to the member a document attesting that it has awarded him the title of "associate insurance broker" (A.I.B.).

2.03 Only the member to whom the Association has awarded the title of associate insurance broker may use such title with his name.

DIVISION III

THE OBTAINING OF THE TITLE OF "CHARTERED INSURANCE BROKER" (C.I.B.)

3.01. The Association awards the title of "chartered insurance broker" (C.I.B.) to a market intermediary in damage insurance who is a member thereof and who:

(a) has acted in the capacity of a broker in damage insurance for at least twenty-four (24) consecutive months;

(b) holds the title of "associate insurance broker" (A.I.B.);

(c) has taken the courses and successfully passed the examinations for the certificate in insurance brokerage management.

3.02 The Association issues to the member a document attesting that it has awarded him the title of "chartered insurance broker" (C.I.B.).

3.03 Only the member to whom the Association has awarded the title of "chartered insurance broker" (C.I.B.) may use such title with his name.

DIVISION IV WITHDRAWAL OF THE TITLE

4.01 A member cannot use or display a title awarded by the Association while he is suspended from the Association or once he is expelled therefrom or from the moment he is no longer a member thereof.

4.02 A person may not use or display a title awarded by the Association without its authorization.

DIVISION V GENERAL PROVISIONS

5.01 This by-law shall come into force on the fifteenth day following its publication in the *Gazette officielle du Québec* or on the effective date of sections 5, 7 and 13 of the first sentence of the first paragraph of section 29 and of section 42 of An Act respecting market intermediaries (1989, c. 48), if this date is later than such fifteenth day.

4875

Draft Regulation

An Act respecting market intermediaries
(1989, c. 48)

Insurance brokers

— Condition of access

The Minister for Finance gives notice, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the By-law respecting condition of access, refusal, renewal, suspension, expulsion and readmission to the Association des courtiers d'assurances de la province de Québec, adopted by the Association and the text of which appears below, will be submitted to the Government for approval upon the expiry of 45 days following the publication of this notice in the *Gazette officielle du Québec*. The Government may approve it with or without amendments.

Any person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to Mrs. Louise Robic, Minister for Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec), G1R 5L3, with a copy to the Inspector General of Financial Institutions, 800, place d'Youville, 9^e étage, Québec (Québec), G1R 4Y5.

LOUISE ROBIC,
Minister for Finance

By-law respecting condition of access, refusal, renewal, suspension, expulsion and readmission to the Association des courtiers d'assurances de la province de Québec

An Act respecting market intermediaries
(1989, c. 48)

DIVISION I GENERAL PROVISIONS

1.01 This by-law is adopted under sections 118 and 125 (1) of An Act respecting market (1989, c. 48).

1.02 In this by-law, unless the context indicates otherwise, the following expressions mean:

(a) "Association": the Association des courtiers d'assurances de la province de Québec;

(b) "Board": the Board of Directors of the Association des courtiers d'assurances de la province de Québec;

(c) "Council": the Conseil des assurances de dommages;

(d) "Act": An Act respecting market intermediaries (1989, c. 48) with its present and future amendments;

(e) "Member": a person or partnership that meets the membership conditions determined in this by-law;

(f) "Associate": a market intermediary in damage insurance who, among other things, has management responsibilities within his partnership;

(g) "Officer": a market intermediary in damage insurance who, among other things, has management responsibilities within his legal person;

1.03 In this by-law, unless the context indicates otherwise, the definitions in An Act respecting market intermediaries (1989, c. 48) apply.

1.04 The Interpretation Act (R.S.Q., c. I-16) with its present and future amendments, applies to this by-law.

DIVISION II CONDITIONS OF ADMISSION FOR MEMBERS

2.01. To be admitted as a member of the Association des courtiers d'assurances de la province de Québec, a natural person shall file an application by using the form provided in Schedule A, duly completed, and:

(1) join an attestation stating that he has solicited a market intermediary certificate in damage insurance from the Conseil des assurances de dommages;

(2) indicate the other certificates that he has obtained in conformity with An Act respecting market intermediaries (1989, c. 48) or, if applicable, his registration with the Commission des valeurs mobilières du Québec;

(3) join a signed statement attesting that he shall act as a market intermediary in damage insurance and specifying the category in which he shall carry on activities as such;

(4) join an attestation of a bond, guarantee or insurance coverage of professional liability in conformity with the requirements of the Regulation of the Conseil des assurances de dommages pertaining to market intermediaries in damage insurance ();

(5) successfully pass the examination of the Association with a grade of at least 60 %, involving the regulations and by-laws applicable to a market intermediary in damage insurance;

(6) no longer be in the situation that caused his expulsion from the Association, if applicable;

(7) have paid outstanding fines and expenses with interest at the discount rate, if applicable;

(8) join with his application the payment of fees provided in the regulation respecting membership fees payable by members;

(9) make the oath of office or make the solemn affirmation prescribed in Schedule D.

This person shall transmit to the Association the attestation of the bond, guarantee or insurance coverage of professional liability provided in subsection 4 of the first paragraph at the time he

solicits a market intermediary certificate in damage insurance from the Conseil des assurances de dommages.

2.02 In the event of failure, the candidate is entitled to sit for a second examination which shall be held within 3 months of the first examination.

2.03 In the event of failure of the second examination, the candidate shall only file a new application for an examination after a waiting period of 6 months.

2.04 Upon the candidate's request, the Association shall re-evaluate his examination and notify him of the results.

2.05 To be admitted as a member of the Association des courtiers d'assurances de la province de Québec, a partnership shall apply by using the form provided in Schedule B, duly completed and forward the following documents and information:

(1) the surname, given name, domicile and profession and, if applicable, the firm name and head office address of its partners and the indication among the latter of the financial institutions, financial groups or related legal persons whose participation exceeds 20 % as well as the indication of the market intermediary certificates in damage insurance obtained by its partners, if applicable;

(2) the surname, given name, domicile and profession of any other person acting on behalf of this partnership;

(3) the surname, given name, domicile and profession of persons through whom it carries on activities of market intermediary in damage insurance and an attestation stating that they are members of the Association and holders of a certificate issued by the Conseil;

(4) a signed statement by a representative generally or specially authorized for such purpose, attesting that the partnership shall act as a market intermediary in damage insurance and specifying the category in which it shall carry on activities as such;

(5) an attestation stating that the persons in its employment and who deal directly with the public have adequate qualifications and knowledge required by the Regulation of the Council;

(6) the surname and given name of the partner who shall ensure liaison with the Association;

Furthermore, a partnership shall no longer be in the situation that caused its expulsion from the Association, if applicable.

In addition, a partnership shall join with its application the payment of fees provided, for a firm, in the by-law respecting membership fees payable by members.

2.06 To be admitted as a member of the Association des courtiers d'assurances de la province de Québec, a legal person shall apply by using the form provided in Schedule C, duly completed and forward the following documents and information:

(1) the surname, given name, domicile and profession and, if applicable, the corporate name and the address of the head office of its shareholders and the indication among the latter of the financial institutions, financial groups or related legal persons who hold directly or indirectly, more than 20 % of its shares or voting rights vesting in its shares;

(2) the surname, given name, domicile and profession of its directors and officers;

(3) the surname, given name, domicile and profession of any other person acting on behalf of such legal person;

(4) the surname, given name, domicile and profession of persons through whom it carries on activities as a market intermedi-

ary in damage insurance and an attestation stating that such persons are members of the Association and holders of a certificate issued by the Council;

(5) a signed statement by a representative generally or specially authorized for such purpose, attesting that the legal person shall act as a market intermediary in damage insurance and specifying the category in which it shall carry on activities as such;

(6) an attestation stating that the persons in its employment and who deal directly with the public have adequate qualifications and knowledge required by the Regulation of the Council;

(7) the surname and given name of the officer who shall ensure liaison with the Association.

Furthermore, a legal person shall no longer be in the situation that caused its expulsion from the Association, if applicable.

In addition, a legal person shall join with its application the payment of fees provided, for a firm, in the by-law respecting membership fees payable by members.

DIVISION III CONDITIONS OF READMISSION

3.01 The Board readmits as a member a natural person, a partnership or a legal person who or that is no longer a member for less than three (3) years and who or that applies by using the form provided in Schedule A, duly completed, and that:

(1) joins with its application the payment of fees provided in the by-law on membership fees payable by members, for a natural person or a firm, as the case may be;

(2) meets the conditions prescribed in sections 2.01 (except subsection 5), 2.05 or 2.06;

(3) pays arrears in fees and accrued interest at the discount rate, as the case may be;

(4) acquits outstanding fines or expenses and accrued interest at the discount rate, as the case may be;

(5) is no longer in the situation that caused his or its expulsion from the Association, if applicable.

DIVISION IV CONDITION OF RENEWAL

4.01 To obtain the renewal of its membership upon the due date of its annual fee, a member shall apply by using the form provided in Schedule A, B or C, as the case may be, to the Council 30 days prior to such date and:

(1) joins with his or its application the payment of fees provided in the by-law on membership fees payable by members, for a natural person or a firm, as the case may be;

(2) acquits outstanding fines or expenses and accrued interest at the discount rate, as the case may be;

(3) is not expelled or suspended from the Association.

DIVISION V CONDITIONS OF REFUSAL

5.01 The Board refuses to admit, readmit or renew a natural person as a member in the event that such person:

(1) has admitted his guilt to or has been found guilty of a criminal act related to the market intermediary activity within 5 years preceding his application for admission, readmission or renewal, unless a pardon has been granted;

(2) is placed under curatorship or tutorship;

(3) has assigned his property or has been put in receivership under the Bankruptcy Act and has not yet been released, except if the assignment of property or the putting in receivership is the result of causes independent of the carrying on of the activities of a market intermediary;

(4) does not meet the conditions provided in sections 2.01, 3.01 or 4.01.

5.02 The Board refuses to admit, readmit or renew a partnership as a member in the event that one of the partners through whom it carries on market intermediation activities in damage insurance:

(1) has admitted its guilt to or has been found guilty of a criminal act related to the activity of market intermediary within the last 5 years preceding the application for admission, readmission or renewal of the partnership, unless a pardon has been granted;

(2) is placed under curatorship or tutorship;

(3) has assigned its property or has been put in receivership under the Bankruptcy Act and has not yet been released, except if the assignment of property or the putting in receivership is the result of causes independent of the carrying on of the activities of a market intermediary;

In addition, the Board refuses to admit, readmit or renew a partnership as a member in the event that it does not meet the conditions provided in sections 2.05, 3.01 or 4.01.

5.03 The Board refuses to admit, readmit or renew a legal person as a member in the event that such person:

(1) has admitted its guilt to or has been found guilty of a criminal act related to the activity of market intermediary within the last 5 years preceding the application for admission, readmission or renewal, unless a pardon has been granted;

(2) has assigned its property or has been put in receivership under the Bankruptcy Act and has not yet been released;

(3) it does not meet the conditions provided in sections 2.06, 3.01 or 4.01.

5.04 The Board shall, each time it refuses to admit, readmit or renew a natural person, a partnership or legal person as a member, notify the applicant in writing within a period of forty-five (45) days in specifying the grounds for such refusal.

DIVISION VI **CONDITIONS OF SUSPENSION AND EXPULSION**

6.01 A member is suspended from the Association:

(1) whose right to carry on activities as a market intermediary in damage insurance has been suspended by a final decision of the discipline committee of the Association or of the Court of Québec, as the case may be;

(2) whose exigible fees are unpaid for over 3 months;

(3) who falls into one of the cases provided in subsection 3 of section 5.01, in subsection 3 of the first paragraph of section 5.02 or in subsection 2 of section 5.03, depending on whether the member is a natural person, a partnership or a legal person.

(4) whose certificate, issued by the Council authorizing him or it to act as a market intermediary in damage insurance, is suspended.

6.02 A member is expelled from the Association:

(1) who is no longer entitled to carry on activities as a market intermediary in damage insurance following a final decision of the discipline committee of the Association or of the Court of Québec, as the case may be;

(2) who falls into one of the cases provided in subsections 1 and 2 of section 5.01, in subsections 1 and 2 of the first paragraph of section 5.02 or in subsection 1 of section 5.03, depending on whether the member is a natural person, a partnership or a legal person;

(3) whose certificate, issued by the Conseil des assurances de dommages authorizing him or it to act as a market intermediary in damage insurance, is cancelled;

(4) whose certificate is not issued to him by the Conseil des assurances de dommages within 30 days following the initial application for readmission or renewal.

Furthermore, a firm is expelled from the Association when it ceases to carry on activities through market intermediaries in damage insurance as such or is dissolved, wound up or otherwise withdraws from business.

In addition, a natural person who so requests or who dies, is also expelled from the Association.

6.03 A suspension or expulsion from the Association imposed under sections 6.01 and 6.02 does not reduce the amount of fees owing by the member and as such, they still remain payable.

6.04 A suspension or expulsion from the Association imposed under sections 6.01 or 6.02 shall be followed by a notice sent to the natural person, the partnership or legal person, as the case may be, by registered or certified mail or served in conformity with the Code of Civil Procedure (R.S.Q., c. C-25). This notice shall indicate the cause, duration and effective date of the suspension or expulsion.

Such notice shall also be sent to the Conseil des assurances de dommages and to the Inspector General of Financial Institutions.

6.05 A suspension from the Association is raised as soon as the cause of the suspension disappears. From such time onward, the membership may, if applicable, be renewed under the conditions provided in section 4.01.

DIVISION VII **GENERAL PROVISIONS**

7.01 This by-law shall come into force on the fifteenth day following its publication in the *Gazette officielle du Québec* or on the effective date of sections 5, 7 and 13 of the first sentence of the first paragraph of section 29 and of section 42 of An Act respecting market intermediaries (1989, c. 48), if this date is later than such fifteenth day.

SCHEDULE A **APPLICATION FOR A NATURAL PERSON**

SCHEDULE B **APPLICATION FOR A PARTNERSHIP**

SCHEDULE C **APPLICATION FOR A LEGAL PERSON**

SCHEDULE D**OATH OF OFFICE OR SOLEMN AFFIRMATION**

I, _____, do hereby swear (or solemnly affirm) that I shall carry on the activities of an insurance broker in damage insurance with honesty, fidelity and justice.

I shall faithfully carry on the mandates that are entrusted to me.

I shall respect professional secrecy.

I shall comply with An Act respecting market intermediaries (1989, c. 48) and its regulations and I shall always take care so as not to compromise the honour and dignity of the profession to which I am committing myself today.

Signature _____

Sworn or solemnly affirmed
before me on _____
this _____ day of _____ 199.

4873

Draft Regulation

An Act respecting market intermediaries
(1989, c. 48)

Insurance brokers**— Membership fees**

The Minister for Finance gives notice, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the By-law respecting membership fees payable by members, adopted by the Association des courtiers d'assurances de la province de Québec and the text of which appears below, will be submitted to the Government for approval upon the expiry of 45 days following the publication of this notice in the *Gazette officielle du Québec*. The Government may approve it with or without amendments.

Any person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to Mrs. Louise Robic, Minister for Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec), G1R 5L3, with a copy to the Inspector General of Financial Institutions, 800, place d'Youville, 9^e étage, Québec (Québec), G1R 4Y5.

LOUISE ROBIC,
Minister for Finance

By-Law respecting membership fees payable by members

An Act respecting market intermediaries
(1989, c. 48)

DIVISION I**GENERAL PROVISIONS**

1.01 This by-law is adopted under section 125, (3) of An Act respecting market intermediaries (1989, c. 48).

1.02 In this by-law, unless the context indicates otherwise, the following expressions mean:

(a) "Association": the Association des courtiers d'assurances de la province de Québec;

(b) "Firm": a legal person or partnership admitted as a member;

(c) "Act": An Act respecting market intermediaries (1989, c. 48) with its present and future amendments;

(d) "Member": person or partnership that meets the membership conditions determined under the by-laws of the Association;

(e) "Broker in damage insurance": a person who offers directly to the general public or to other market intermediaries in insurance, damage insurance products from more than one insurer and who is not bound by a contract of exclusivity to any one of these insurers.

1.03 In this by-law, unless the context indicates otherwise, the definitions in An Act respecting market intermediaries, (1989, c. 48) apply.

1.04 The Interpretation Act (R.S.Q., c. I-16) with its present and future amendments, applies to this by-law.

DIVISION II**ANNUAL MEMBERSHIP FEES**

2.01 Annual membership fees payable by members of the Association are as follows:

(a) \$350 for a natural person;

(b) \$1 for a firm.

2.02 Annual membership fees shall be paid at the latest on April 1st of each year.

2.03 Any increase or change in annual fees under the second paragraph of section 125 of the Act is payable on the date set in the resolution providing such increase or change; said date shall be later than the date of approval of this resolution by the Inspector General of Financial Institutions.

2.04 Annual membership fees are not refundable by the Association.

2.05 Upon his admission to the Association, the new member shall pay initial membership fees calculated in proportion to the number of months between the date of his admission and the date when annual membership fees become payable.

For purposes of the above paragraph, the word "month" means a calendar month or a part of such month.

2.06 Upon its admission to the Association, the new member firm shall pay as initial membership fee the entire amount of the annual membership fee.

2.07 A resolution setting the annual membership fees of members for the following fiscal year shall be submitted to members at each annual general meeting. If this resolution modifies this by-law, it shall be submitted to the government for its approval.

DIVISION III**SPECIAL FEES**

3.01 Members may, at each annual general meeting, vote a special fee for purposes of promoting the profession and the distinctive character of the broker in damage insurance. This fee is payable by each member and shall be paid by the latest on April 1st of each year.

DIVISION IV GENERAL PROVISIONS

4.01 This by-law shall come into force on the fifteenth day following its publication in the *Gazette officielle du Québec* or on the effective date of sections 5, 7 and 13 of the first sentence of the first paragraph of section 29 and of section 42 of An Act respecting market intermediaries (1989, c. 48), if this date is later than such fifteenth day.

4872

Draft Regulation

An Act respecting market intermediaries
(1989, c. 48)

Insurance brokers — Rules of conduct

The Minister for Finance gives notice, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Rules of conduct for members of the Association des courtiers d'assurances de la province de Québec, adopted by the Association and the text of which appears below, will be submitted to the Government for approval upon the expiry of 45 days following the publication of this notice in the *Gazette officielle du Québec*. The Government may approve it with or without amendments.

Any person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to Mrs. Louise Robic, Minister for Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec), G1R 5L3, with a copy to the Inspector General of Financial Institutions, 800, place d'Youville, 9^e étage, Québec (Québec), G1R 4Y5.

LOUISE ROBIC,
Minister for Finance

Rules of conduct for members of the Association des courtiers d'assurances de la province de Québec

An Act respecting market intermediaries
(1989, c. 48)

DIVISION I GENERAL PROVISIONS

1.01 This by-law adopted under sections 125, (5) of An Act respecting market intermediaries (1989, c. 48).

1.02 The Interpretation Act (R.S.Q., c. I-16) with its present and future amendments applies to this by-law.

1.03 In this by-law, unless the context indicates otherwise, the following expressions mean:

- (a) "Association": the Association des courtiers d'assurances de la province de Québec;
- (b) "Code": this code of rules of conduct;
- (c) "Council": the conseil des assurances de dommages;
- (d) "Act": An Act respecting market intermediaries (1989, c. 48) with its present and future amendments;
- (e) "Regulations": the regulations adopted under An Act respecting market intermediaries (1989, c. 48) with their present and future amendments;

(f) "Member": a person or partnership that meets the membership conditions determined under the by-laws of the Association.

1.04 Unless the context indicates otherwise, the definitions in An Act respecting market intermediaries (1989, c. 48) apply to this code.

DIVISION II DUTIES AND OBLIGATIONS REGARDING THE PUBLIC

2.01 The member shall give his support to any measure likely to improve the quality and availability of his professional in the field in which he carries on.

2.02 The member shall refrain from making statements or publishing material contrary to the Act and its regulations, nor shall he incite any person to cause any prejudice thereto but he may, for legitimate reasons and by lawful means, comment on or criticize the Act and its regulations.

2.03 The member shall favour educational and informational measures in the field in which he carries on. Except for valid reasons, he shall also perform whatever acts are required in order to ensure such educational and informational functions in the field in which he carries on.

2.04 The member shall not directly or indirectly publish or circulate a report or comments that are false or which are patently false regarding another member, nor shall he take any civil, criminal or other action, nor take any purely dilatory action against any plaintiff, witness, member of the surveillance or discipline committee or the Association if such maneuver or action is aimed at avoiding the deposition of a complaint under the Act or its regulations against the member, at preventing a complaint or at inducing someone to withdraw or abandon a complaint.

2.05 The conduct of a member must exemplify dignity, objectivity and moderation.

DIVISION III DUTIES AND OBLIGATIONS REGARDING THE CLIENT

3.01 Prior to accepting a mandate, the member shall take into account the limits of his aptitudes, his knowledge as well as the means at his disposal. In particular, he shall not undertake or continue a mandate for which he does not have requisite capacity without obtaining appropriate assistance.

3.02 The member shall at all times put the interests of insureds and of any eventual client before his own or those of any other person or institution.

3.03 The member shall at all times recognize the right of the client to consult another member or some other competent person.

3.04 The member shall seek to establish a relationship of mutual trust between himself and his client.

3.05 The member shall avoid all misrepresentation regarding his level of competence or the efficacy of his services.

3.06 The member may accept or refuse a mandate.

3.07 The primary duties of a member are:

- (a) to comply with the Act and regulations adopted under this Act;
- (b) to unceasingly fulfill the requisite conditions for becoming a member of the Association and for carrying on the activities of a market intermediary in damage insurance;
- (c) not to carry out his activities dishonestly or neglectfully;

(d) not to be found guilty of a criminal act relating to the activity of a market intermediary;

(e) not to have assigned his property or not have been put in receivership under the Bankruptcy Act, except if this assignment of property or receiving order results from causes that are in no way related to the carrying on of market intermediation activities;

(f) to refrain from carrying on his activities in conditions or circumstances likely to compromise the quality of his services;

(g) to ignore any intervention on the part of a third party which could have an influence on the performance of his activities to the detriment of his client or the insured;

(h) to refrain from using personal information to the detriment of a client or for the purpose of obtaining directly or indirectly an advantage for himself or for someone else;

(i) to keep secret that which is entrusted to him in the carrying on of his activities except with the written consent of the client or of any other person having an interest therein;

(j) to promptly answer requests for information and explanations from the officers of the Association, its investigators, committees and agents;

(k) to give account of the performance of any mandate;

(l) to act towards clients with probity and counsel them conscientiously by explaining to them their rights and obligations and by giving them any required and useful information;

(m) to avoid any misrepresentation or mental reservation;

(n) to give to insurers the information that they are entitled to expect;

(o) to employ honest methods in competition and solicitation;

(p) to refrain from discrediting fellow colleagues;

(q) to refrain from using for his personal purposes any valuables over which he has custody;

(r) not to appropriate for his own benefit any money entrusted to him in the performance of any mandate.

DIVISION IV DUTIES AND OBLIGATION REGARDING THE PROFESSION

4.01 Except to the extent provided under the Act and its regulations, the member shall limit himself to the carrying on of his activities.

4.02 The member shall not use any defamatory or disloyal procedure such as to induce the public to lose confidence in a member, an insurer or its contracts.

4.03 The member shall not pay or promise to pay, directly or indirectly, any consideration to a person who is not a member of the Association in order that such person may act as a member or take the title thereof.

4.04 The member shall not accept, directly or indirectly, a payment or a promise to be paid any consideration for purposes of acting as a member by a person who, without being a member of the Association, acts or attempts to act as a member.

4.05 The member shall not share the commission he receives except insofar as provided under the Act and its regulations.

4.06 The member shall not pay or promise to pay a remuneration so that his services be retained except insofar as provided under the Act and its regulations.

4.07 The member shall not commit an offence contravening An Act respecting market intermediaries (1989, c. 48) or any act referred to in sections 205 to 210 of said Act.

4.08 The member shall not fail to pay to an insurer, upon request or in a specified time, the premiums that he has collected for the insurer, except on grounds of a legitimate excuse.

4.09 The member shall not neglect the professional duties relating to the carrying on of his activities.

4.10 The member shall not use the Bankruptcy Act so as to release himself from his professional obligations.

4.11 The member shall not obstruct, directly or indirectly, the work of the officers of the Association, its investigators, its committees and its agents.

4.12 The member shall not file a complaint or formulate a malicious accusation against another member.

4.13 The member shall not contact a plaintiff without prior written permission from the discipline committee when he has been advised that a complaint has been filed.

DIVISION V GENERAL PROVISIONS

5.01 This by-law shall come into force on the fifteenth day following its publication in the *Gazette officielle du Québec* or on the effective date of sections 5, 7 and 13 of the first sentence of the first paragraph of section 29 and of section 42 of An Act respecting market intermediaries (1989, chapter 48), if this date is later than such fifteenth day.

4874

Draft Regulation

An Act respecting market intermediaries
(1989, c. 48)

Market intermediaries in damage insurance

The Minister for Finance gives notice, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the Conseil des assurances de dommages relating to market intermediaries in damage insurance, adopted by the Conseil and the text of which appears below, will be submitted to the Government for approval upon the expiry of 45 days following the publication of this notice in the *Gazette officielle du Québec*. The Government may approve it with or without amendments.

Any person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to Mrs. Louise Robic, Minister for Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec), G1R 5L3, with a copy to the Inspector General of Financial Institutions, 800, place d'Youville, 9^e étage, Québec (Québec), G1R 4Y5.

LOUISE ROBIC,
Minister for Finance

Regulation respecting the Conseil des assurances de dommages relating to market intermediaries in damage insurance

An Act respecting market intermediaries
(1989, c. 48, a. 78)

CHAPTER I CERTIFICATE

DIVISION I CATEGORIES

1. The categories of certificates of market intermediaries in damage insurance issued by the Conseil des assurances de dommages are:

- (1) an insurance agent's certificate in personal lines insurance;
- (2) an insurance agent's certificate in commercial lines insurance;
- (3) an insurance agent's certificate in personal and commercial lines insurance;
- (4) an insurance broker's certificate in personal lines insurance;
- (5) an insurance broker's certificate in commercial lines insurance;
- (6) an insurance broker's certificate in personal and commercial lines insurance;
- (7) a special broker's certificate;
- (8) a first class claims adjuster's certificate in personal lines insurance;
- (9) a first class claims adjuster's certificate in commercial lines insurance;
- (10) a first class claims adjuster's certificate in personal and commercial lines insurance;
- (11) a second class claims adjuster's certificate in personal lines insurance;
- (12) a second class claims adjuster's certificate in commercial lines insurance;
- (13) a second class claims adjuster's certificate in personal and commercial lines insurance;

2. The certificate provided in subsection 1 of section 1 only entitles its holder to carry on his activities as an agent in personal lines insurance. The holder of this certificate is limited to the field of damage insurance involving property and civil liability of a domestic nature of a natural person as well as the accessory conditions of such insurance, including residential buildings not exceeding 6 dwellings.

The certificate provided in subsection 2 of section 1 only entitles its holder to carry on his activities as an agent in commercial lines insurance. The holder of this certificate is limited to the field of damage insurance other than personal lines insurance.

The certificate provided in subsection 3 of section 1 only entitles its holder to carry on his activities as an agent in personal and commercial lines insurance. The holder of this certificate may act in the fields of damage insurance provided in the first and second paragraphs hereabove.

3. The certificate provided in subsection 4 of section 1 only entitles its holder to carry on his activities as a broker in personal

lines insurance. The holder of this certificate is limited to the field of damage insurance involving property and civil liability of a domestic nature of a natural person as well as the accessory conditions of such insurance, including residential buildings not exceeding 6 dwellings.

The certificate provided in subsection 5 of section 1 only entitles its holder to carry on his activities as a broker in commercial lines insurance. The holder of this certificate is limited to the field of damage insurance other than personal lines insurance.

The certificate provided in subsection 6 of section 1 only entitles its holder to carry on his activities as a broker in personal and commercial lines insurance. The holder of this certificate may act in the fields of damage insurance provided in the first and second paragraphs hereabove.

4. The holder of a certificate provided in subsection 7 of section 1 may only be a holder of a insurance broker certificate as provided in subsections 4, 5 or 6 of section 1. The certificate provided in subsection 7 of section 1 only entitles its holder to carry on his activities as a special broker in the field of damage insurance for which he is the holder of an insurance broker certificate.

5. The certificate provided in subsection 8 of section 1 only entitles its holder to carry on his activities as a first class claims adjuster in personal lines insurance. The holder of this certificate is authorized to do business for himself or for an employer, in the field of damage insurance involving property and civil liability of a domestic nature of a natural person as well as the accessory conditions of such insurance, including residential buildings not exceeding 6 dwellings.

The certificate provided in subsection 9 of section 1 only entitles its holder to carry on his activities as a first class claims adjuster in commercial lines insurance. The holder of this certificate is authorized to do business for himself or for an employer, in the field of damage insurance other than in personal lines insurance.

The certificate provided in subsection 10 of section 1 only entitles its holder to carry on his activities as a first class claims adjuster in personal and commercial lines insurance. The holder of this certificate is authorized to do business for himself or for an employer, in the fields of damage insurance provided in the first and second paragraphs hereabove.

6. The certificate provided in subsection 11 of section 1 only entitles its holder to carry on his activities as a second class claims adjuster in personal lines insurance. The holder of this certificate is authorized only to do business for an employer and under the supervision of a first class claims adjuster of the same categories, in the field of damage insurance involving property and civil liability of a domestic nature of a natural person as well as the accessory conditions of such insurance, including residential buildings not exceeding 6 dwellings.

The certificate provided in subsection 12 of section 1 only entitles its holder to carry on his activities as a second class claims adjuster in commercial lines insurance. The holder of this certificate is authorized only to do business for an employer and under the supervision of a first categories claims adjuster of the same category, in the field of damage insurance other than in personal lines insurance.

The certificate provided in subsection 13 of section 1 only entitles its holder to carry on his activities as a second class claims adjuster in personal and commercial lines insurance. The

holder of this certificate is authorized only to do business for an employer and under the supervision of a first class claims adjuster of the same category, in the fields of damage insurance provided in the first and second paragraphs hereabove.

7. The certificate provided in subsections 8, 9, 11 or 12 of section 1 authorizes its holder to do business in personal and commercial lines insurance in matters of automobile insurance.

8. A claims adjuster's certificate held by a firm shall only be one of those provided in subsections 8, 9 or 10 of section 1.

DIVISION II

CONDITIONS OF ISSUE

Par. 1 Natural person

9. To obtain a certificate, a natural person shall file an application therefor in writing and meet the following conditions:

(1) be the holder of a Diploma of College Studies (D.E.C.) or of an attestation of equivalence issued under the authority of the ministère de l'Enseignement supérieur et de la Science, or have worked for at least 5 years continuously in the field of damage insurance covered by the certificate being applied for, insofar as he is the holder of a Diploma in Secondary School or of an attestation of equivalence issued under the authority of the ministère de l'Éducation;

(2) have completed the apprenticeship prescribed in section 10;

(3) have successfully passed the examinations prescribed by the Council that cover the following subjects:

(a) legislation and regulations pertaining to damage insurance contracts and to market intermediary activities in damage insurance;

(b) insurance contracts in current use in personal lines insurance, namely automobile insurance and residential insurance, for the person who applies for a certificate in the field of personal lines insurance;

(c) insurance contracts in current use in commercial lines insurance, for the person who applies for a certificate in the field of commercial lines insurance;

(d) insurance contracts in current use in commercial lines and personal lines insurance, namely automobile insurance and residential insurance, for the person who seeks a certificate in the field of personal lines and commercial lines insurance;

(e) usages and practices applicable in the field of damage insurance covered by the certificate being applied for;

(4) not have admitted guilt to or not have been found guilty of a criminal act related to the activity of market intermediary within the 5 years preceding his application for a certificate, unless a pardon has been granted;

(5) not be placed under curatorship or tutorship;

(6) not have assigned his property or not have been put in receivership under the Bankruptcy Act (R.S.C., c. B-3), and not have been released, except if the assignment of property or the putting in receivership is the result of causes independent of the carrying on of the activities of a market intermediary;

(7) not be subject to a suspension of certificate issued by the Council;

(8) not be subject to a suspension of an insurance agent or claims adjuster certificate following a final decision by the Inspector General of Financial Institutions in accordance with section 360 of the Insurance Act (R.S.Q., c. A-32) or by the Court of

Québec, in accordance with section 366 of such Act, as the case may be;

(9) not be subject to a cancellation of a certificate issued by the Council during the past 5 years;

(10) not be subject to a cancellation of an insurance agent or claims adjuster certificate following a final decision by the Inspector General of Financial Institutions in accordance with section 360 of the Insurance Act (R.S.Q., c. A-32) or by the Court of Québec, in accordance with section 366 of such Act, as the case may be, during the past 5 years;

(11) no longer be in the situation that caused the cancellation of a certificate, if applicable;

(12) not have been expelled from the Association des courtiers d'assurances de la province de Québec following a final decision by one of the disciplinary instances provided in section 25 of the Insurance Brokers Act (R.S.Q., c. C-74), over the past 5 years;

(13) agree to have an office in Québec;

(14) not be the debtor of a sum of money for one of the reasons stated in section 175 of An Act respecting market intermediaries (1989, c. 48);

(15) not to occupy a position or carry on activities or have an interest therein which are incompatible with the activities for which such person is applying for a certificate;

(16) pay the dues and contributions provided in Chapters IX and XIII.

The Diploma of Professional College Studies in administrative techniques with a concentration in "general insurance," the bachelor's degree in administration with a major in "insurance" from a Québec university, the successful passing of examinations entitling one to the title of chartered insurance broker of the Association or the successful passing of examinations of the associate program of the Insurance Institute of Canada take the place of the examinations provided in paragraphs b, c, d and e in subsection 3 of paragraph one.

In addition, in the case of a broker in damage insurance, the candidate shall be a member of the Association des courtiers d'assurances de la province de Québec.

10. The carrying on of the activity of market intermediary in damage insurance requires the applicant to have previously completed a 90-hour minimum apprenticeship performed under the supervision and responsibility of a natural person who holds a market intermediary certificate in damage insurance of the same category.

However, when the certificate being applied for covers the fields of personal lines and commercial lines insurance, the apprenticeship shall be of a minimum duration of 180 hours equally distributed between the two fields.

The apprenticeship prior to carrying on the activity of claims adjuster shall be performed under the supervision and responsibility of a natural person who holds one of the certificates of a first class claims adjuster provided in subsections 8, 9 or 10 of section 1 according to the category of certificate applied for by the applicant.

11. To successfully pass an examination provided in subsection 3 of the first paragraph of section 9, a candidate shall obtain a minimum percentage of 60 % for each prescribed examination.

The Council forwards examination results to the candidate by mail.

12. The examinations and the apprenticeship shall be held within a 12-month period.

13. In the event of failure, the candidate is entitled to sit for a second examination, provided he does so within the deadline set in section 12.

14. A natural person who applies for one of the first class claims adjuster certificates provided in subsections 8, 9 or 10 of section 1 shall have acted as a claims adjuster for at least 5 of the 10 years preceding the date of his application.

15. In addition, the applicant shall forward to the Council the following documents and information:

- (1) his surname and given name;
 - (2) his birth certificate;
 - (3) his social insurance number;
 - (4) 2 photographs of himself, not more than 6 months old and signed on the reverse side;
 - (5) his personal address;
 - (6) his business address and, in the case that it would be different, his business address at the location where he will carry on his activities as market intermediary in damage insurance;
 - (7) his academic background;
 - (8) his Diploma of College Studies (D.E.C.) or an attestation of equivalence issued under the authority of the ministère de l'Enseignement supérieur et de la Science in conformity with subsection 1 of the first paragraph of section 9 or, if applicable:
 - (a) an attestation from his employer stating that he has worked for five years continuously in the field of damage insurance covered by the certificate applied for, or if it is impossible to obtain such an attestation, a sworn statement or solemn affirmation by the applicant to such effect;
 - (b) his secondary school diploma or an attestation of equivalence issued under the authority of the ministère de l'Éducation;
 - (9) the other certificates that he has obtained in conformity with the Act or, if applicable, his registration with the Commission des valeurs mobilières du Québec;
 - (10) a sworn statement or solemn affirmation from the person under whose responsibility the apprenticeship was performed, attesting that it was satisfactorily completed;
 - (11) an attestation of the successful passing of the examinations prescribed in subsection 3 of the first paragraph of section 9;
 - (12) a signed statement attesting that he shall act as a market intermediary in damage insurance either as an insurance agent, or as an insurance broker, or as a special broker or as a claims adjuster within the meaning of section 1 of the Act, depending on the activities that he intends to carry on;
 - (13) if applicable, the name, firm name, corporate name, the principal establishment of his employer or the firm for which he intends to carry on his activities;
 - (14) if applicable, the firm name under which he intends to do business alone, the address of his principal establishment and of all his offices in Québec as well as a copy of the registration of such firm name and its amendments, if any;
 - (15) an attestation of a bond, guarantee or insurance coverage of professional liability in conformity with Chapter VIII.
- 16.** A natural person who applies for a market intermediary certificate in damage insurance within 5 years following the

abandonment or cancellation of such a certificate is exempted from the application of subsections 1 to 3 of the first paragraph of section 9 if he has done business as a market intermediary in damage insurance in the field of damage insurance covered by the certificate being applied for during at least 5 years prior to the abandonment or cancellation of this certificate.

Par. 2 Partnership

17. To obtain a certificate, a partnership shall file an application therefor in writing and meet the following conditions:

(1) not have one of the associates through whom it carries on its activities as market intermediary in damage insurance who:

(a) has admitted guilt to or has been found guilty of a criminal act related to the activity of market intermediary within the 5 years preceding the partnership's application for a certificate, unless a pardon has been granted;

(b) is placed under curatorship or tutorship;

(c) has assigned his property or has been put in receivership under the Bankruptcy Act (R.S.C., c. B-3), and has not yet been released, except if the assignment of property or the putting in receivership is the result of causes independent of the carrying on of the activities of a market intermediary;

(d) has been expelled from the Association following a final decision by one of the disciplinary instances provided in section 25 of the Insurance Brokers Act (R.S.Q., c. C-74), over the past 5 years;

(2) not be subject to a suspension of certificate issued by the Council;

(3) not be subject to a suspension of an insurance agent or claims adjuster certificate following a final decision by the Inspector General of Financial Institutions in accordance with section 360 of the Insurance Act (R.S.Q., c. A-32) or by the Court of Québec in accordance with section 366 of such Act, as the case may be;

(4) not be subject to a cancellation of a certificate issued by the Council during the past 5 years;

(5) not be subject to a cancellation of an insurance agent or claims adjuster certificate following a final decision by the Inspector General of Financial Institutions in accordance with section 360 of the Insurance Act (R.S.Q., c. A-32) or by the Court of Québec in accordance with section 366 of such Act, as the case may be, during the past 5 years;

(6) no longer be in the situation that caused the cancellation of a certificate, if applicable;

(7) not be the debtor of a sum of money for one of the reasons stated in section 175 of the Act;

(8) have an office in Québec;

(9) not to occupy a position or carry on activities or have an interest therein which are incompatible with the activities for which it is applying for a certificate;

(10) pay the dues and contributions provided in Chapter IX.

In addition, in the case of a broker in damage insurance, the partnership shall be a member of the Association.

18. This partnership shall, in addition, forward the following documents and information to the Council:

(1) its firm name and the address of its principal establishment as well as that of all its offices in Québec;

(2) the surname, given name, domicile and profession and, if applicable, the firm name and head office address of its partners and the indication among the latter of the financial institutions, financial groups or related legal persons whose participation exceeds 20 % as well as the indication of the market intermediary certificates in damage insurance obtained by its partners, if applicable;

(3) the surname, given name, domicile and profession of any other person acting within the meaning of section 12 of the Act on behalf of this partnership;

(4) the surname, given name, domicile and profession of persons through whom it carries on activities of market intermediary in damage insurance and an attestation stating that they are members of the Association, in the case of an insurance broker, and holders of a certificate issued by the Council;

(5) a signed statement by a representative generally or specially authorized for such purpose, attesting that the partnership shall act as a market intermediary in damage insurance either as an insurance agent, as an insurance broker, or as a special broker or a claims adjuster, depending on the activities that it intends on carrying on;

(6) in the case of a claims adjuster certificate, a signed statement by a representative generally or specially authorized for such purpose, attesting that the partnership shall act in this capacity through at least one natural person who holds a first class claims adjuster certificate as provided in subsections 8, 9 or 10 of section 1;

(7) a signed statement by a representative generally or specially authorized for such purpose, attesting that the persons in its employment have adequate qualifications and knowledge required by this Regulation;

(8) a certified copy of the registration of its firm name and of all its amendments, if any;

(9) the surname and given name of the partner who shall ensure liaison with the Council;

(10) an attestation of a bond, guarantee or insurance coverage of professional liability in conformity with Chapter VIII.

Par. 3 Legal person

19. To obtain a certificate, a legal person shall file an application therefor in writing and meet the following conditions:

(1) not have admitted guilt to or not have been found guilty of a criminal act related to the activity of market intermediary within the 5 years preceding its application for a certificate, unless a pardon has been granted;

(2) not have assigned its property or not have been put in receivership under the Bankruptcy Act and not yet have been released;

(3) not be subject to a suspension of certificate issued by the Council;

(4) not be subject to a suspension of an insurance agent or claims adjuster certificate following a final decision by the Inspector General of Financial Institutions in accordance with section 360 of the Insurance Act (R.S.Q., c. A-32) or by the Court of Québec in accordance with section 366 of such Act, as the case may be;

(5) not be subject to a cancellation of certificate issued by the Council during the past 5 years;

(6) not be subject to a cancellation of an insurance agent or claims adjuster certificate following a final decision by the Inspector General of Financial Institutions in accordance with section 360 of the Insurance Act (R.S.Q., c. A-32) or by the Court of Québec in accordance with section 366 of such Act, as the case may be, during the past 5 years;

(7) no longer be in the situation that caused the cancellation of a certificate, if applicable;

(8) not be the debtor of a sum of money for one of the reasons stated in section 175 of An Act respecting market intermediaries (1989, c. 48);

(9) not to occupy a position or carry on activities or have an interest therein which are incompatible with the activities for which such person is applying for a certificate;

(10) pay the dues and contributions provided in Chapter IX.

In addition, in the case of a broker in damage insurance, the legal person shall be a member of the Association.

20. In addition, this legal person shall forward to the Council the following documents and information:

(1) its corporate name and the address of its head office as well as that of all its offices in Québec;

(2) the surname, given name, domicile and profession and, if applicable, the corporate name and the address of the head office of its shareholders and the indication among the latter of the financial institutions, financial groups or related legal persons who hold directly or indirectly, more than 20 % of its shares or voting rights vesting in its shares, or whose participation in a partnership with such legal person exceeds 20 %, as the case may be;

(3) the surname, given name, domicile and profession of its directors and officers;

(4) the surname, given name, domicile and profession of any other person acting within the meaning of section 12 of the Act on behalf of such legal person;

(5) the surname, given name, domicile and profession of persons through whom it carries on activities as a market intermediary in damage insurance and an attestation stating that such persons are members of the Association, in the case of an insurance broker, and holders of a certificate issued by the Council;

(6) a signed statement by a representative generally or specially authorized for such purpose, attesting that the legal person shall act as a market intermediary in damage insurance either as an insurance agent, an insurance broker, or as a special broker or claims adjuster, depending on the activities that it intends on carrying on;

(7) in the case of a claims adjuster certificate, a signed statement by a representative generally or specially authorized for such purpose, attesting that the legal person shall act in this capacity through at least one natural person who holds a first class claims adjuster certificate as provided in subsections 8, 9 or 10 of section 1;

(8) a signed statement by a representative generally or specially authorized for such purpose, attesting that the persons in its employment have adequate qualifications and knowledge required by this Regulation;

(9) the amount of its share capital, the number of shares composing such share capital and the number of subscribed shares;

(10) a copy of its articles of incorporation and all amendments thereto, if applicable;

(11) the surname and given name of the officer who shall ensure liaison with the Council.

(12) an attestation of a bond, guarantee or insurance coverage of professional liability in conformity with Chapter VIII.

Par. 4 Special conditions applicable to a special broker

21. To obtain a special broker certificate, a broker in damage insurance shall at all times be authorized to offer and sell in Québec the products of at least 3 insurers that are licence holders in Québec.

22. This broker in damage insurance shall file an application therefor in writing and forward the following documents and information to the Council:

(1) the number of the damage insurance broker certificate of which he is the holder;

(2) the names and addresses of at least 3 damage insurers that are licence holders in Québec for whom he is authorized to offer and sell products;

(3) a statement of his financial position audited by a chartered accountant;

(4) an attestation of the deposit of a guarantee in conformity with sections 97 and 98 of this Regulation.

Par. 5 Special conditions applicable to a non resident

23. A partnership or a person carrying on insurance broker or claims adjuster activities elsewhere other than in Québec may apply for an insurance broker or claims adjuster certificate, depending on the activity it or he carries on, if it or he applies therefor and meets the following conditions:

(1) it or he does not at any time have in Québec an office, a business location or a sales or service outlet, as the case may be;

(2) it or he does not at any time have in Québec a representative or employee carrying on its activities therein;

(3) it or he is legally authorized to do business as an insurance broker, whether under the name of agent or claims adjuster, as the case may be, in a state or a province;

(4) this state or this province, as the case may be, recognizes for the insurance broker or claims adjuster from Québec, as the case may be, who is the holder of a certificate issued by the Council other than that of a non resident, the right to exercise his profession therein;

(5) in the case of an insurance broker, it or he agrees not to solicit insurance business or to offer insurance products in Québec;

(6) in the case of a claims adjuster, it or he agrees not to solicit mandates in Québec or relating to some thing or an interest located solely in Québec, or to a claim attaching thereto and to do business only for the sole purpose of completing an investigation within the scope of a mandate already assigned by an insurer outside Québec.

24. The Council may, by resolution, exempt a person referred to in section 23 from the obligation of performing an apprenticeship, of taking the examinations or of complying with the other conditions provided in this Regulation insofar as the state or

province, as the case may be, confers this same privilege on a broker in damage insurance or a claims adjuster from Québec, as the case may be.

25. The insurance broker certificate issued by the Council to a non resident broker does not authorize such broker to solicit insurance business or offer insurance products in Québec.

In addition, the non resident broker may not hold a special broker certificate or act in such capacity.

26. The claims adjuster certificate issued by the Council to a non resident claims adjuster only authorizes such adjuster to complete in Québec an investigation within the scope of a mandate already assigned by an insurer outside Québec; such claims adjuster shall be prohibited from soliciting mandates in Québec or mandates attaching to some thing or an interest located solely in Québec, or a claim attaching thereto.

27. The Council may, by resolution, impose upon the non resident broker:

(1) the same restrictions and conditions imposed by the state or by the province in which he does business, upon any broker in Québec;

(2) any conditions and restrictions that it deems useful or necessary for protecting the public.

28. The conditions and restrictions imposed by the Council under section 27 of this Regulation as well as the "non resident" mention shall appear on the non resident broker's certificate.

29. Notwithstanding any provision contrary to this Regulation, the certificate of an insurance broker or a claims adjuster is automatically cancelled when:

(1) his certificate is suspended or cancelled by a final decision of the discipline committee of the Council or Association, as the case may be, or the Court of Québec or is the subject of a temporary decision to suspend on the part of one of these instances;

(2) it ceases to meet the conditions provided in the regulations or contravenes their provisions.

30. The Council may, by resolution, cancel the certificate of a non resident insurance broker or claims adjuster if it deems such cancellation to be useful or necessary for protecting the public while giving the holder a reasonable opportunity to be heard.

31. If the state or province ceases to recognize for any insurance broker or claims adjuster from Québec, the rights and privileges identical to those conferred on a non resident insurance broker or claims adjuster, as the case may be, by his certificate and by the provisions of the regulations, the Council may, by resolution:

(1) cancel the certificate;

(2) modify or impose new conditions and restrictions on the non resident insurance broker or claims adjuster.

32. Notwithstanding the provisions of Chapter XIII of this Regulation, a claim laid against a non resident holder of an insurance broker certificate is only admissible regarding the Compensation Fund if the insurance contract is covered by Article 2496 of the Civil Code of Lower Canada, or would have probably been so covered, had it not been for the act of the holder.

33. The provisions of Chapter XIII of this Regulation do not apply to the holder of a non resident claims adjuster certificate and any claim laid against him is inadmissible regarding the Compensation Fund.

Par. 6 General Provision

34. The Council shall, each time it refuses to issue a certificate, notify the applicant and the Association, as the case may be, in writing by specifying the grounds for such refusal.

DIVISION III MENTIONS

35. The certificate issued by the Council shall contain the following mentions:

- (1) in the case of a natural person, the surname, given name and firm name, if applicable, of the certificate holder;
- (2) in the case of a firm, the firm name or the corporate name of the partnership or legal person holding the certificate;
- (3) the number of the certificate;
- (4) the class of the certificate;
- (5) the name of the employer of the certificate holder, if applicable;
- (6) the indication, if applicable, that the market intermediary in damage insurance is authorized to use the title of financial planner;
- (7) the dates of the issuing and expiry of the certificate;
- (8) the signature of the person authorized to issue the certificate or a reproduction, by any means or process, of such signature.

36. The certificate of a franchisee shall contain the following mention:

NOTICE

.....
(write in the name of the franchisee)

is acting as a market intermediary in damage insurance as a franchisee of

.....
(write in the name of the franchisor)

DIVISION IV PERIOD OF VALIDITY OF THE CERTIFICATE

37. The period of validity of a certificate is 1 year. Its expiry date is set for March 31st.

This period may, however, be less than 12 months in the case of the issuance of a first certificate.

DIVISION V RENEWAL

38. To obtain the renewal of his certificate, a natural person, a partnership or a legal person shall apply therefor in writing to the Council, 30 days prior to its expiry, and:

- (1) demonstrate that he or it meets the conditions of issue provided in section 9, except for subsections 1 to 3 for a natural person, section 17 for a partnership, and section 19 for a legal person, that were applicable at the time of the issuing of the certificate that he or it is renewing;
- (2) in the case of a special broker, demonstrate that he or it also meets the conditions of issue provided in sections 21 and 22.
- (3) in the case of a natural person, pay the dues and contributions provided in Chapters IX and XIII, and in the case of a

partnership or a legal person, pay the dues provided in Chapter IX.

(4) in the case of an insurance agent or a claims adjuster, have settled outstanding fines, if applicable.

Unless three months have lapsed since the expiry of his certificate, the Council may renew a holder's certificate whose application is late and who meets all the conditions of section 38, if he pays to the Council the dues required under Chapter IX.

DIVISION VI NOTICE OF CHANGE

39. If during the period of validity of a certificate, a change occurs in the information and documents provided during the initial application, the certificate holder shall immediately notify the Council thereof in writing.

CHAPTER II CONDITIONS GOVERNING THE CARRYING ON OF ACTIVITIES

DIVISION I GENERAL PROVISIONS

40. Except regarding activities covered by a special broker's certificate, the office of a market intermediary in damage insurance, including sales outlets, shall be under the supervision and responsibility of at least one natural person holding a certificate authorizing him to carry on his activities in the same field as that in which the office carries on its activities. The holder of a second class claims adjuster's certificate may not assume either this supervision or this responsibility.

41. A natural person holding a certificate shall, during the period of validity of his certificate, meet the following conditions for carrying on its activities:

- (1) not have admitted guilt to or not have been found guilty of a criminal act related to the activity of market intermediary;
- (2) not be placed under curatorship or tutorship;
- (3) not have assigned his property or not have been put in receivership under the Bankruptcy Act, except if the assignment of property or the putting in receivership is the result of causes independent of the carrying on of the activities of a market intermediary;
- (4) not be the debtor of a sum of money for one of the reasons stated in section 175 of An Act respecting market intermediaries (1989, c. 48);
- (5) not have failed to maintain a bond, guarantee or insurance coverage of professional liability in conformity with Chapter VIII.

42. A partnership holding a certificate shall during the period of validity of its certificate, not have one of the associate through whom it carries on its activities as market intermediary in damage insurance who:

- (1) has admitted guilt to or has been found guilty of a criminal act related to the activity of market intermediary;
- (2) has been placed under curatorship or tutorship;
- (3) has assigned his property or has been put in receivership under the Bankruptcy Act, except if the assignment of property or the putting in receivership is the result of causes independent of the carrying on of the activities of a market intermediary;

(4) has failed to maintain a bond, guarantee or insurance coverage of professional liability in conformity with Chapter VIII.

43. A legal person holding a certificate shall, during the period of validity of its certificate, meet the following conditions for carrying on its activities:

(1) not have admitted guilt to or not have been found guilty of a criminal act related to the activity of market intermediary;

(2) not have assigned its property or not have been put in receivership under the Bankruptcy Act;

(3) not have failed to maintain a bond, guarantee or insurance coverage of professional liability in conformity with Chapter VIII.

DIVISION II CLAIMS ADJUSTER

44. A claims adjuster shall not have, either directly or indirectly, any interest in a business or private legal person that operates a business the object of which is the marketing of services or goods which would put it in conflict with its activities as claims adjuster. Namely, a claims adjuster shall not operate a business involving:

- (1) the rental or repair of automobiles;
- (2) the repair of household equipment or appliances;
- (3) the repair or renovation of buildings;
- (4) the painting of buildings;
- (5) the furnishing of services or goods following a loss.

For purposes of this section, a private legal person is a legal person whose securities are not listed on a Canadian or foreign stock exchange recognized by the governmental authority having jurisdiction in the province or state in which it is located.

DIVISION III BROKER ACTING AS CLAIMS ADJUSTER

45. Insofar as provided under contract with an insurer, a broker in damage insurance may, without being a holder of a claims adjuster's certificate, carry on the activity of a claims adjuster under the following conditions:

(1) by having successfully passed the examination prescribed by the Council involving the usages and practices in the field of claims adjusting, or by being the employer of a person who has successfully passed this examination or the firm in which this person does business;

(2) by acting with regard to claims arising from insurance policies written with an insurer through his intermediation, that of his employer or that of the firm through which he does business;

(3) by respecting, with the necessary changes, the rules applicable to the holder of a claims adjuster certificate;

(4) by making a written disclosure as provided in section 15 of the Act.

However, the employer and the firm referred to in subsection 1 of the preceding paragraph may only carry on the activity of a claims adjuster by the intermediation of the person who successfully passes the prescribed examination.

DIVISION IV SPECIAL BROKER

46. A special broker shall transmit to the Council, each month:

(1) a copy of all declarations signed by insureds in accordance with Schedule I;

(2) a list containing the name of the insurers that have refused to grant insurance or that could not grant it under reasonable conditions, as well as the description of the proposed risk and the identity of the person who applied for the insurance.

(3) the identity and principal establishment of all insurers that accepted such risks.

47. A special broker shall:

(1) offer a risk to at least 3 insurers that are license holders in Québec prior to availing himself of his certificate;

(2) place in one and the same calendar year at least 80 % of the risks entrusted to him, both in number of risks as in value of premiums, with insurers that are license holders in Québec.

CHAPTER III SUSPENSION AND CANCELLATION

48. When a broker in damage insurance is expelled from the Association or ceases to be a member thereof, his certificate as a market intermediary in damage insurance becomes null. If he is suspended from this Association, his certificate is suspended for the same period and under the same conditions.

This nullity or this suspension takes effect at the same time as the expulsion or suspension from the Association.

49. The certificate of an insurance agent or a claims adjuster is suspended when:

(1) the holder's right to carry on activities as a market intermediary in damage insurance has been suspended by a final decision of the discipline committee of the Council or of the Court of Québec, as the case may be;

(2) the holder falls into one of the cases provided in subsection 3 of section 41, in subsection 3 of section 42 or in subsection 2 of section 43, depending on whether the holder is a natural person, a partnership or a legal person.

50. The certificate of an insurance agent or a claims adjuster is cancelled when:

(1) the holder's right to carry on activities as a market intermediary in damage insurance has been cancelled by a final decision of the discipline committee of the Council or the Court of Québec, as the case may be;

(2) the holder falls into one of the cases provided in subsections 1 and 2 of section 41, in subsections 1 and 2 of section 42 or in subsection 1 of section 43, depending on whether the holder is a natural person, a partnership or a legal person.

51. The certificate of a market intermediary in damage insurance is cancelled:

(1) at the request of the natural person who holds a certificate;

(2) upon evidence of death of the natural person who holds a certificate;

(3) upon evidence that a firm ceases to do business as such through market intermediaries in damage insurance, or is dissolved, wound up or otherwise abandons its affairs.

In the case of an insurance broker, the Council shall notify in writing the Association within 30 days of this cancellation.

52. The secretary of the discipline committee of the Conseil or the Association, as the case may be, shall forward immediately to the Council, a copy of any decision of the committee or of the Court of Québec ordering the suspension or cancellation of a certificate or the expulsion of a market intermediary in damage insurance.

53. The suspension of a certificate is repealed by the Council upon evidence produced by the holder of the certificate that the cause of the suspension has disappeared.

CHAPTER IV TITLE

54. The holder of a certificate authorizing him to do business as an agent in damage insurance may use the title of damage insurance agent.

55. The holder of a certificate authorizing him to do business as a broker in damage insurance may use the title of damage insurance broker.

56. The holder of a certificate authorizing him to do business as a claims adjuster may use the title of claims adjuster.

57. A market intermediary in damage insurance may not use the title of financial planner unless he notifies the Council thereof.

Such notice shall be forwarded along with:

(1) in the case of a natural person, an attestation of the diploma awarded by the institution referred to in the first paragraph of section 29 of the Act;

(2) in the case of a firm, an attestation of the diploma awarded by the institution referred to in the first paragraph of section 29 of the Act to the persons through whom it does business and who are authorized to use the title of financial planner;

(3) evidence of payment of any contribution referred to in the second paragraph of section 29 of the Act.

58. A market intermediary in damage insurance shall inform the Council immediately in writing of any modification relating to provision in section 57.

59. A market intermediary in damage insurance shall renew the notice given under section 57 at least 30 days prior to the expiry of his market intermediary certificate in damage insurance. He shall then forward evidence of payment of the contribution provided in subsection 3 of section 57.

60. A market intermediary in damage insurance who ceases to be the holder of a certificate may not use the title attaching thereto.

61. A market intermediary in damage insurance whose certificate is suspended may not use any of the titles relating to his duties during the period of his suspension.

62. A market intermediary in damage insurance may not use any of the titles authorized by this Regulation while he fails to comply with the conditions for the carrying on of its activities as provided in Chapter II.

CHAPTER V PERSON WORKING FOR AN INTERMEDIARY IN DAMAGE INSURANCE

63. The minimum required training and apprenticeship needed by a person who deals directly with the public within the meaning of section 12 of the Act and who is employed by a market intermediary in damage insurance are:

(1) a secondary school diploma or an attestation of equivalence recognized by the ministère de l'Éducation;

(2) a minimum of 30 hours of training in the field of damage insurance relevant to the duties to which he shall be assigned;

(3) an apprenticeship with a minimum period of 30 hours in the field of damage insurance relevant to the duties to which he shall be assigned.

CHAPTER VI OCCUPATIONS

64. In addition to carrying on the activities authorized by his certificate, a market intermediary in damage insurance may do business in:

DIVISION I ALLOWED OCCUPATIONS

65. A market intermediary in damage insurance is not limited in the occupations that he may carry on, except in the manner provided in this chapter.

DIVISION II OCCUPATIONS PROHIBITED FOR ANY MARKET INTERMEDIARY IN DAMAGE INSURANCE

66. A market intermediary in damage insurance may not exercise any occupation that would put him into a conflict of interests or would expose him thereto, except if the provisions of a law or regulation taken under their authority enable him to disclose the situation and to refrain from intervening or voting.

67. A market intermediary in damage insurance may not exercise any occupation or take any position or duty that would be incompatible with the carrying on of his profession.

DIVISION III OCCUPATIONS PROHIBITED FOR A BROKER

68. A broker may not:

(1) act on the behalf of only one damage insurer;

(2) bind himself by exclusive contract to only one damage insurer.

DIVISION IV OCCUPATIONS PROHIBITED FOR AN AGENT

69. An agent may not:

(1) act on the behalf of more than one damage insurer;

(2) bind himself by exclusive contract to more than one damage insurer;

(3) offer or sell damage insurance products from an insurer other than the one on behalf of whom he exercises his profession or with whom he is bound by contract;

(4) solicit or obtain damage insurance business on behalf of a person other than the insurer for whom he exercises his profession or with whom he is bound by contract.

In addition, an insurance agent may not, directly or indirectly, associate himself or join with one or more insurance agents, unless they all represent the same insurer.

CHAPTER VII REMUNERATION AND COMMISSION SHARING

DIVISION I REMUNERATION

70. A market intermediary in damage insurance shall disclose in writing to the client his means of remuneration prior to or simultaneously with the rendering of his services.

71. A market intermediary in damage insurance shall disclose to the client any modification in his means of remuneration at the time of the first written communication following the coming into effect of such modification.

72. A market intermediary in damage insurance whose firm through which he carries on his activities or whose employer, as the case may be, makes the disclosure required under sections 70 and 71, is exempted from the obligation of making the disclosure provided therein.

DIVISION II COMMISSION SHARING

73. A market intermediary in damage insurance to whom a commission is to be paid, informs the client in writing of the identity of the market intermediary with whom he is sharing is commission, if applicable.

74. A market intermediary in damage insurance is not required to furnish this information a second time when renewing an insurance policy, or if the client shall reasonably expect that the sharing occurs with the same intermediary.

75. Sections 73, 74 and 76 only apply to the sharing of commissions within the same firm or between insurance agents working with the same insurer.

DIVISION III TERMS AND CONDITIONS FOR SHARING COMMISSIONS

76. A market intermediary in damage insurance may share with a market intermediary the commission he receives for the sale of an insurance product if both of them have a common interest in the sale of the insurance product, or if the client of one intermediary is already or becomes the client of the other.

DIVISION IV REGISTRATION

77. Any commission sharing shall be recorded immediately in a register kept for such purpose.

CHAPTER VIII SURETIES

DIVISION I GENERAL PROVISIONS

78. A market intermediary in damage insurance shall furnish and permanently maintain a surety for the liability he may incur due to faults, errors or omissions committed while carrying on his activities as a market intermediary, or those that may be committed by his employees or representatives, present or past.

Such surety may be constituted by a bond, a guarantee or a professional liability insurance.

79. The amount of this surety shall not be less than \$500 000.

80. Section 78 does not apply in cases provided in section 175 of the Act.

DIVISION II BOND

81. The bond shall be issued in favour of the Council.

82. A market intermediary in damage insurance remains subject to the same obligations as the surety in addition to those for which he is liable as principal debtor.

83. A market intermediary in damage insurance shall, 30 days prior to the expiry of the bond, furnish the Council with a confirmation of renewal, a renewal certificate or a new bond.

84. The bond may be cancelled following a 2 month notice given by the surety to the Council by registered mail, accompanied by written evidence showing that this notice was also sent to the appropriate market intermediary in damage insurance.

85. In the event of action taken against a market intermediary in damage insurance based upon liability referred to in section 78, such market intermediary in damage insurance shall immediately notify the Council thereof, hand over a copy of the proceedings and indicate whether the surety has been informed of the action. He shall proceed in the same manner should a judgment become enforceable against him.

86. Despite the non-renewal or the cancellation of the bond, such bond shall provide that the surety remains bound if litigation is undertaken during the period in which the bond was in force or at the latest, within two years following its expiry.

DIVISION III GUARANTEE

87. The guarantee shall be furnished:

(1) by means of the deposit of a sum of money with the Council; or,

(2) by means of the deposit of a bearer debenture, convertible at all times, issued or guaranteed by the Government of Canada or by one of its provinces and whose market value is at least equal to the amount required under section 79.

88. The interest generated by the guarantee belongs to and is remitted to the person who furnished it.

89. The Council may, at maturity, cash in a debenture deposited as collateral and keep the proceeds as a deposit.

90. In the event of action taken against a market intermediary in damage insurance based upon liability referred to in section 78, such intermediary shall immediately notify the Council thereof and hand over a copy of the proceedings. He shall proceed in the same manner if a judgment becomes enforceable against him.

91. The Council may remit the guarantee or the balance of the guarantee to the person who provided it when more than two years have elapsed since the market intermediary in damage insurance ceased carrying on his activities.

DIVISION IV PROFESSIONAL LIABILITY INSURANCE

92. The insurance contract shall contain the following provisions:

(1) coverage shall extend to acts performed by employees or representatives, present or past, of the certificate holder;

(2) a commitment from the insurer to give notice to the Council of the cancellation or non-renewal of the contract, at least 60 days prior to such cancellation or at least 30 days prior to such non-renewal, as the case may be.

93. A market intermediary in damage insurance who holds an insurance policy covering his professional liability, shall provide to the Council, 30 days prior to its expiry, a confirmation or a renewal certificate or a new insurance policy for a minimum period of 12 months.

94. A market intermediary in damage insurance shall have at all times net liquid assets at least equal to the amount of the highest deductible to be found in his insurance contract referred to in section 92 of this Regulation.

95. The Council may extend the deadline for furnishing, continuing or renewing a surety if it appears that such a deadline is insufficient due to particular circumstances.

96. The Council may also, each time the failure to furnish, continue or renew a surety does not originate in some voluntary negligence of a market intermediary, annul the suspension of his certificate under the conditions that it determines and thus terminate his disqualification.

DIVISION V SPECIAL BROKER

97. In addition to the surety that he shall furnish as a market intermediary in damage insurance, a special broker shall deposit with the Council a sum of \$50 000 guaranteeing the execution of the obligations of insurers that are not licence holders in Québec for risks placed with them by him.

98. This guarantee may be in cash or constituted by debentures or other liquid assets issued or guaranteed by Québec, any other Canadian province, Canada, the United Kingdom, the United States of America, the states of this union and any municipal or school corporation in Québec.

99. The provisions of sections 95 and 96 of this Regulation apply to the deposit referred to in section 97.

DIVISION VI EXEMPTIONS

100. The following are exempted from providing surety:

- (1) the employee of an insurer;
- (2) the market intermediary in damage insurance whose employer or firm for whom he works provides such surety.

CHAPTER IX DUES AND CONTRIBUTIONS

DIVISION I GENERAL PROVISIONS

101. Annual dues payable for carrying on the activity of a market intermediary in damage insurance are:

- (1) \$75 for a natural person who holds a certificate;
- (2) \$100 for a firm that holds a certificate;
- (3) \$100 for a natural person or a firm that holds a special broker certificate;
- (4) \$100 for a non resident broker in damage insurance or a claims adjuster who holds a certificate;

(5) \$25 for a natural person who holds a certificate and who uses the title of financial planner;

(6) \$50 for a late renewal application of a certificate.

102. Dues payable for carrying on the activity of market intermediary in damage insurance by means of franchising are:

(1) \$100 in all for the registration of the franchisor and concomitant registrations of its franchisees;

(2) \$15 for the registration of any additional franchisee;

(3) \$15 for deleting the registration of a franchisor or a franchisee.

103. In the case that a certificate is issued for a period of less than 12 months, dues payable are established proportionately.

104. Dues payable for studying the application of a candidate for the certificate of market intermediary in damage insurance are \$25.

105. For examinations required for the obtaining of a market intermediary in damage insurance certificate, dues payable for one field of damage insurance are \$50. Nonetheless, such dues are \$75 for the set of examinations involving both the fields of personal lines and commercial lines insurance, when the candidate takes them at the same time.

For any second sitting of an examination, dues payable are the same as those provided in the first paragraph.

DIVISION II REQUIREMENTS FOR ISSUANCE AND RENEWAL

106. Exigible dues are payable annually at the time of applying for the issuance or renewal of a certificate.

107. Dues are paid by certificated cheque or money order payable to the Council, or in cash.

DIVISION III CONTRIBUTION OF FINANCIAL INSTITUTIONS

108. The annual contribution exigible from an insurer using the services of a market intermediary in damage insurance is:

(1) \$1 000; plus

(2) \$0.15 per \$1 000 of direct written premiums or of fixed assessments relating to goods or risks located in Québec for the preceding year.

109. The annual contribution exigible from a financial institution, other than an insurer, is \$100 for each sales outlet, namely a place of business at which the public is offered damage insurance products.

110. The annual contribution referred to in section 108 is payable as follows:

(1) \$1 000 on January 1st;

(2) the balance on the following July 1st, if applicable.

The contribution referred to in section 109 is payable on January 1st.

111. Arrears in contributions bear interest, starting upon their due date, at the legal rate plus the indemnity calculated in accordance with the provisions of the second paragraph of Article 1056 c of the Civil Code of Lower Canada.

112. The payment of contributions exigible from financial institutions shall be made by cheque payable to the Council.

CHAPTER X TRUST ACCOUNT

113. A market intermediary in damage insurance shall open in his name and maintain, in Québec, a trust account for his activities as market intermediary in damage insurance, in a bank governed by the Bank Act (R.S.C., c. B-1) or in some other financial institution registered with la Régie de l'assurance dépôt du Québec.

114. A market intermediary in damage insurance shall immediately deposit entirely in the trust account any sum of money:

(1) collected, in the carrying on of his activities, for a client or received from a client to be paid to an insurer or to a third party;

(2) which belongs to him, but is included in an amount a part of which must be paid to a client, an insurer or a third party.

115. The market intermediary in damage insurance may, from time to time, invest the sums of money in trust deposited in his trust account in the following investments, in Canadian currency, and whose maturity date is one year or less:

(1) treasury bonds issued by Québec, Canada or another Canadian province;

(2) bankers' acceptances issued by a bank or a savings bank carrying on their activities in Québec;

(3) time deposit certificates issued by a bank, a savings bank, a trust company or a savings or credit union carrying on its activities in Québec.

The securities shall be registered in the name of the market intermediary followed by the words in "in trust". These securities are then part of the trust account.

Upon cashing, the sums resulting from eligible investments shall, unless they are renewed in the same manner, be deposited immediately in the trust account.

116. A market intermediary in damage insurance shall only make withdrawals from a trust account involving:

(1) sums of money that shall be paid to an insurer or to a third party for a client;

(2) sums of money that shall be paid to an insurer or to a third party for an insurer;

(3) sums of money that belong to the market intermediary in damage insurance;

(4) sums of money that have been deposited by mistake in the trust account;

(5) sums required for making eligible investments.

117. Withdrawals of sums of money from the trust account shall only be done by cheque.

118. A market intermediary in damage insurance maintains his recourse by means of privilege, compensation or otherwise, on any sum of money in trust.

119. A market intermediary in damage insurance who:

(1) was a market intermediary in damage insurance at the time this Regulation comes into force;

(2) begins to exercise his profession after the coming into force of this Regulation; or

(3) ceases to be in the employment of an insurer or to carry on his activities for a firm;

shall, at the request of the Council or of the Association in the case of a broker in damage insurance, complete and forward to

the Council or to the Association, as the case may be, a sworn statement or solemn affirmation containing the information provided in Schedule II as well as his written authorization permitting the persons referred to in section 143 of the Act, for the purposes referred to in section 144 of this Act, to obtain from any institution at which his trust account is kept, all information that they might require.

120. A market intermediary in damage insurance in the employment of an insurer is not subject to this chapter. Nonetheless, he is subject to section 122.

121. A market intermediary in damage insurance who is a director or officer of a firm in which he does business, shall ensure that the firm complies with the provisions of this chapter.

122. A market intermediary in damage insurance who is in the employment of an insurer or to whom the second paragraph of section 26 of the Act applies, shall not, in his own name, receive any sum of money in trust, or have a trust account.

CHAPTER XI BOOKS AND REGISTERS

DIVISION I GENERAL PROVISIONS

123. A market intermediary in damage insurance shall maintain and keep up to date books and registers needed for recording the transactions that he makes within the scope of his activities.

DIVISION II BOOKS AND REGISTERS PERTAINING TO THE TRUST ACCOUNT

124. A market intermediary in damage insurance shall maintain and keep up to date the books and registers needed for recording the date prescribed by this Regulation relating to the trust account:

(1) any sum of money in trust;

(2) disbursements that he makes from his trust account;

(3) the balance of the trust account;

(4) the balance to be received from each insurer;

(5) the balance due to each insurer;

(6) the balance to be received from each client;

(7) the balance due to each client;

(8) the balance to be received from other market intermediaries;

(9) the balance due to other market intermediaries.

DIVISION III REGISTER OF COMMISSIONS

125. A market intermediary in damage insurance shall maintain and keep up to date a register of commissions in which he records immediately the following information:

(1) the effective date of the contract;

(2) the object of the contract;

(3) the number of the contract;

(4) the price of the contract;

(5) the name of the client and of the insurer;

(6) the amount of each commission.

DIVISION IV REGISTER OF SHARED COMMISSIONS

126. A market intermediary in damage insurance shall maintain and keep up to date a commission sharing register in which he immediately records, for any commission that he shares, all the following information for each transaction:

- (1) the effective date of the contract that motivated the sharing of the commission;
- (2) the object of the contract;
- (3) the number of the contract;
- (4) the price of the contract;
- (5) the name of the client and of the insurer;
- (6) the amount of the shared commission;
- (7) the amount paid to the other intermediary or received by him;
- (8) the identity of the other intermediary as well as the number and categories of the pertinent certificate.

DIVISION V GROUPING OF REGISTERS

127. The books and registers that shall be kept under the present chapter may be grouped into one register, providing all required information is recorded therein.

DIVISION VI MECHANICAL OR ELECTRONIC REGISTERS

128. A market intermediary in damage insurance may maintain and keep the books and registers referred to in the present chapter on a mechanical or electronic support, provided he takes reasonable measures to:

- (1) prevent the loss or destruction thereof;
- (2) prevent the forging of entries.

DIVISION VII EXCEPTIONS

129. A market intermediary in damage insurance who is employed by an insurer or who does business in a firm, is not required to keep such books and registers when they are kept by the insurer or the firm. In such a case, these books and registers come under the responsibility of the insurer or the firm.

CHAPTER XII PRESERVATION, USE AND DESTRUCTION OF RECORDS, BOOKS AND REGISTERS

DIVISION I PRESERVATION

130. A market intermediary in damage insurance shall preserve client records for at least 3 years starting on the last of the following events:

- (1) the final closing of the client's record;
- (2) the lapsing without renewal or replacement of the last insurance product sold to the client;
- (3) the date of furnishing the last service rendered to the client.

131. A market intermediary in damage insurance shall allow a client to have access to his record and obtain a copy of the documents they contain.

132. A market intermediary in damage insurance shall preserve his books and registers for at least 5 years.

DIVISION II TRANSFER

133. A market intermediary in damage insurance may only transfer his records, books and registers under the following conditions:

- (1) the transferee shall be a market intermediary in damage insurance or the client in the case of his records;
- (2) the transferee notifies the Council of such transfer and agrees to preserve such records, books and registers and to allow access, consultation or copying thereof, in conformity with the provisions of this Regulation.

DIVISION III FINAL TERMINATION OF BUSINESS

134. A market intermediary in damage insurance who definitively ceases to carry on his activities as such, shall beforehand transfer his records, books and registers in conformity with section 133 and notify the Council or the Association thereof, as the case may be.

DIVISION IV DESTRUCTION

135. A market intermediary in damage insurance may, subject to the provisions of other statutes or regulations, destroy a record upon the expiry of the period provided in section 130 of this Regulation.

136. A market intermediary in damage insurance may, subject to the provisions of other statutes or regulations, delete from his books and registers the recordings or statements of sales, services or accounting transactions dating back more than 5 years.

CHAPTER XIII FONDS D'INDEMNISATION EN ASSURANCE DE DOMMAGES

DIVISION I GENERAL PROVISIONS

137. The Fonds d'indemnisation en assurance de dommages created under section 161 of the Act is maintained at a minimum amount of \$250 000.

The first paragraph shall only take effect 3 months after the effective date of this Regulation.

138. The board of directors of the fund is authorized to conclude a contract to insure the fund and to pay the premiums thereof from the fund.

139. The sums of money constituting the fund are invested by its board of directors, while deducting the sums required for its operations, as follows:

- (1) the part of the sums that the board of directors of the fund foresees using on a short-term basis is deposited in a bank, trust company, a federation of savings and credit union or the Caisse centrale Desjardins du Québec for a period not exceeding 30 days and in accordance with the conditions determined by the board of directors of the fund;

- (2) the other part is invested in conformity with Article 981o of the Civil Code of Lower Canada.

DIVISION II CLAIMS

140. A claim presented to the fund shall:

- (1) be done in writing;
- (2) present substantiating facts;
- (3) indicate the amount claimed;
- (4) be done under a sworn oath or solemn affirmation;
- (5) be addressed to the secretary of the fund, or in the absence thereof, to the president or vice-president referred to in section 168 of the Act.

141. At the request of the secretary of the fund or of one of its directors, the claimant or market intermediary in damage insurance handling the matter, shall:

- (1) provide the fund with all details and documents relating to the claim;
- (2) produce any sworn or documentary testimonial evidence.

142. The claim shall be filed within the year of the knowledge by the claimant of the fraud, dishonest practices or misappropriation of funds or property, as the case may be, referred to under section 175 of the Act.

143. A claim shall not be laid against the fund, unless such claimant was insured or should have been insured were it not for the committing of an act referred to in section 175 of the Act, by:

- (1) an insurer;
- (2) a financial institution;
- (3) a market intermediary when claiming in such capacity.

DIVISION III COMPENSATION

144. The board of directors of the fund rules on the grounds of all or part of the claim and, if applicable, sets the compensation. Its decision is final.

DIVISION IV MAXIMUM AMOUNT OF COMPENSATION

145. The maximum compensation payable from the fund is set at the sum of \$100 000 for all claims regarding a market intermediary in damage insurance or several intermediaries who acted in collusion, and at the sum of \$25 000 per claimant.

The board of directors of the fund may, in exceptional circumstances based on humanitarian considerations, pay a compensation higher than the amounts provided in the first paragraph.

DIVISION V CONTRIBUTIONS

146. The annual contribution required from each market intermediary in damage insurance is 10 \$.

A firm is not subject to pay a contribution to the fund.

147. If the fund cannot be maintained at the minimum prescribed amount due to compensations that have been paid or that shall be paid, a special contribution then becomes payable from each market intermediary in damage insurance in accordance with the following conditions:

(1) the amount of this special contribution is equal to the ratio of the deficit divided by the number of market intermediaries in damage insurance;

(2) the board of directors of the fund shall, as soon as the occurrence of the deficit has been observed, forward to each market intermediary in damage insurance a notice of claim for the special contribution which becomes payable within 30 days of the date of its mailing;

(3) the market intermediary in damage insurance shall pay this special contribution within the given deadline.

148. Any contribution prescribed shall be paid into the fund at its head office.

149. Nothing in this chapter shall be interpreted as creating for the fund to the advantage of anyone whatsoever, a right to any sum whatsoever.

CHAPTER XIV PROCEDURE AND CONDITIONS OF FRANCHISING

DIVISION I REGISTRATION IN THE REGISTER OF FRANCHISES

150. No market intermediary in damage insurance shall act as a franchisor or franchisee unless he is registered in the register of franchises kept by the Council.

151. A franchisor shall:

- (1) register in such capacity in the register of franchises;
- (2) register any new franchisee to whom he grants a franchise;
- (3) delete from the register of franchises the name of any market intermediary in damage insurance who ceases to be his franchisee.

152. To be registered in the register of franchises, the franchisor shall provide the following information:

- (1) his corporate name;
- (2) the address of his head office and of his principal establishment;
- (3) the trademarks, firm names, signs, graphic symbols, abbreviations and names that he allows his franchisee to use.

153. To register his franchisee in the register of franchises, the franchisor shall provide the following information pertaining to the franchisee:

- (1) his name and firm name, if applicable;
- (2) the address of his principal establishment and the address of all his offices in Québec;
- (3) the name and address of all market intermediaries in damage insurance through whom he carries on activities as such.

154. If the franchisor does not proceed in due time with the registration of the franchisee in the register of franchises or with the deletion of such registration, the franchisee shall do so himself within 30 days of the beginning or cessation of his activities, as the case may be.

DIVISION II MANDATORY PROVISIONS OF THE FRANCHISING CONTRACT

155. The franchising contract shall provide the following, namely:

- (1) the granting of the franchise;

(2) the obligation of the franchisee to comply with certain standards and rules of conduct in carrying on his activities;

(3) a right of control and surveillance of the franchisor over the activities of the franchisee;

(4) the franchisor's commitment to ensure that each of his franchisee complies with the Act and the provisions of this Regulation applicable as such to the activities of a franchisee as well as the standards and rules of conduct provided in the franchising contract;

(5) the franchisor's commitment to be registered as a franchisor and to register his franchisee as such, as well as to maintain such registrations in the register of franchisees;

(6) provisions aiming to protect the rights and interests of the franchisee's clients, namely at the end of the franchise.

DIVISION III OBLIGATIONS OF THE FRANCHISEE

156. The franchisee shall clearly identify himself as being a franchisee in the carrying on of his activities, especially on his letterhead paper, business cards, advertising or signs.

157. The franchisee shall ensure that his franchisor complies with this Regulation regarding any advertising done for him by the franchisor.

158. When the franchisee provides professional liability insurance as a surety provided under this Regulation, such insurance shall mention that he carries on his activities as a franchisee.

DIVISION IV OBLIGATIONS OF THE FRANCHISOR

159. The franchisor shall ensure that each of his franchisees complies with the Act and the provisions of this Regulation applicable to the activities of a franchisee as well as the standards and rules of conduct provided in the franchising contract.

160. In addition to the surety provided under this Regulation, the franchisor shall hold a professional liability insurance policy for a minimum amount of 500 000 \$ that takes account of his activities as a franchisor.

161. The franchisor shall comply with the provisions of this Regulation applicable to his franchisee regarding any advertising that he does for his franchisee.

CHAPTER XV ADVERTISING AND REPRESENTATIONS

162. A market intermediary in damage insurance may make any advertising that meets the following conditions:

(1) it is not false, erroneous or likely to mislead;

(2) it does not attribute to the intermediary or to the firm which does business through his intermediation, a quality or skill that he cannot justify upon request;

(3) it does not have the effect of denigrating, disparaging or discrediting another market intermediary in damage insurance;

(4) it does not lead one to believe in results that he is not capable of providing.

163. Except for advertising exclusively addressed to other market intermediaries in damage insurance, a market intermediary in damage insurance shall not make or cause to be made in any manner whatsoever, any advertising:

(1) for an insurer that does not hold a Québec license;

(2) indicating that he may obtain damage insurance products from an insurer that does not hold a Québec license.

164. A market intermediary in damage insurance may use a testimony in his advertising provided it meets the following conditions:

(1) it is of a general nature;

(2) it is true;

(2) it expresses the opinion of its author;

(3) it expresses the opinion of its author;

(4) its truthfulness is guaranteed by the market intermediary in damage insurance.

165. A market intermediary in damage insurance may, in his advertising, use statistics provided their source is clearly indicated.

CHAPTER XVI RULES OF CONDUCT APPLICABLE TO AN AGENT IN DAMAGE INSURANCE

DIVISION I GENERAL PROVISIONS

166. An agent in damage insurance shall reimburse the fund, in capital and interest, for every amount paid out to secure his liability under the circumstances mentioned in section 175 of the Act.

167. An agent in damage insurance shall not employ, to deal directly with the public, persons whose training or apprenticeship does not conform with the provisions of this Regulation.

168. An agent in damage insurance shall ensure that his employees and those of the firm through which he acts, comply with the provisions of the Act and this Regulation.

DIVISION II DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC

169. An agent in damage insurance shall, at all times, except for valid reasons, support every measure intended to protect the public.

170. An agent in damage insurance shall, except for valid reasons, support every measure likely to improve the quality of services in the field in which he carries on his activities.

171. An agent in damage insurance shall further education and information measures in the field in which he carries on his activities.

172. The conduct of an agent in damage insurance shall be characterized by objectivity, moderation and dignity.

DIVISION III DUTIES AND OBLIGATIONS TOWARDS THE CLIENT

Par. 1. General Provisions

173. An agent in damage insurance shall follow up forthwith on instructions he receives from a client or notify said client that it is impossible for him to do so.

174. An agent in damage insurance shall not involve himself in guilty acts or omissions contrary to the standards relating to the carrying on of his activities.

175. An insurance agent shall not, by any means whatsoever, make any false or misleading representations to a client or to a potential client.

176. Prior to counselling a client or a potential client, an agent in damage insurance shall take into account the limits of his knowledge as well as the means at his disposal. In particular, he shall not undertake or continue a mandate for which he lacks sufficient preparation without obtaining necessary assistance.

177. Prior to counselling the purchase of an insurance product, an agent in damage insurance shall take into account the true needs of the client or potential client regarding the product in question.

178. An agent in damage insurance shall not prevent a client from consulting another agent, a member of other profession, or any other qualified person.

Par. 2. Integrity

179. An agent in damage insurance shall perform his professional obligations with integrity.

180. An agent in damage insurance shall act towards a client or potential client with probity and by conscientiously providing him with the information that he is entitled to expect regarding the insurance product in question.

181. An agent in damage insurance shall refrain from any false representation regarding his degree of qualifications or regarding the insurance products he offers to a client or potential client.

For purposes of the first paragraph, a representation includes an affirmation, statement, behavior or omission.

Par. 3. Liability

182. An agent in damage insurance shall refrain in carrying on his activities from avoiding or attempting to avoid his professional liability.

Par. 4. Independence and impartiality

183. An agent in damage insurance shall not take into account the intervention of a third party who might influence the performance of his professional obligations, to the detriment of the client.

184. An agent in damage insurance shall charge a fair and reasonable price for his services when he is not paid exclusively on a commission basis. The agent in damage insurance shall especially take into account the following factors in determining his remuneration:

- (1) his experience;
- (2) the time spent on the matter;
- (3) the difficulty of the problem submitted;
- (4) the importance of the matter;
- (5) the responsibility assumed;
- (6) the performance of unusual services or requiring exceptional qualifications or promptness;
- (7) the result obtained.

185. An agent in damage insurance shall not pay, offer to pay or agree to pay to a person who is not an agent in damage insurance, a consideration, a refund or a commission, except in cases provided under the Act or this Regulation.

Par. 5 Professional secrecy

186. Except when the carrying on of his activities so requires, an agent in damage insurance shall respect the secrecy of all personal data that he obtains.

187. An agent in damage insurance must refrain from making indiscreet communications concerning a client and the services he provides to him.

188. An agent in damage insurance shall not use personal information obtained from a client to the detriment of the latter.

189. An agent in damage insurance shall ensure that no employee discloses personal information concerning a client.

DIVISION IV

DUTIES AND OBLIGATIONS TOWARDS THE INSURER

190. An agent in damage insurance shall give the insurer the information which it is entitled to expect.

191. An agent in damage insurance shall not misuse the good faith of an insurer or be guilty of an abuse of trust or disloyal practices thereto.

192. An agent in damage insurance shall not neglect to disclose to the insurer the information in his possession that might influence the compensation, in particular breach of contract, fraud, misrepresentation and forging of evidence.

193. As the case may be, an agent in damage insurance shall not, without a legitimate excuse, fail to pay the insurer, on demand or at the set time, the premiums that the agent has collected on behalf of the insurer.

194. An agent in damage insurance shall not, by any means whatsoever, make false or misleading representations to the insurer he represents.

For purposes of the first paragraph, a representation includes an affirmation, a statement, a behavior or an omission.

DIVISION V

DUTIES AND OBLIGATIONS TOWARDS MARKET INTERMEDIARIES IN DAMAGE INSURANCE

195. An agent in damage insurance shall use loyal solicitation and competition methods.

196. An agent in damage insurance shall not discredit another market intermediary in damage insurance.

197. An agent in damage insurance shall not misuse the good faith of another market intermediary in damage insurance or become guilty on an abuse of trust or disloyal practices regarding such intermediary.

DIVISION VI

DUTIES AND OBLIGATIONS TOWARDS THE COUNCIL

198. An agent in damage insurance when asked by the Council to participate in a disciplinary or supervision committee shall accept this duty unless he is able to justify his refusal for an exceptional reason.

199. An agent in damage insurance shall respond forthwith to all correspondence from the Council, from one of its members, from its secretary or a member of its staff, or from an investigator referred to in section 143 and following of the Act, in the performance of the duties entrusted to them under the Act or the Regulation.

200. An agent in damage insurance shall not intervene vis-à-vis the complainant without the prior written permission of the Chairman or a member of the supervision committee, when he is informed of an investigation concerning him.

DIVISION VII

BREACHES OF THE RULES OF CONDUCT

201. The following shall constitute a breach of the rules of conduct. The fact that an agent in damage insurance:

- (1) ceases to meet requisite conditions for holding a certificate as a market intermediary in damage insurance;
- (2) carries on his activities dishonestly or neglectfully;
- (3) to admit guilt to or be found guilty of a criminal act related to the activity of market intermediary;
- (4) contravenes any provision of An Act respecting market intermediaries;

(5) contravenes any provision of the by-laws of the Council or government regulations that apply to him;

(6) assigns his property or has been put in receivership under the Bankruptcy Act, except if the assignment of property or the putting in receivership is the result of causes independent of the carrying on of the activities of a market intermediary;

(7) pays directly or indirectly a remuneration to a person who does not hold a certificate as an agent in damage insurance in order that such person act in this capacity or take such title;

(8) accepts or has himself paid, directly or indirectly, a remuneration from a person who, without being the holder of a certificate as an agent in damage insurance, acts or attempts to act in this capacity;

(9) accepts or has himself paid, directly or indirectly, a remuneration that is not authorized under the Act or the Regulation from a person other than the one who retained his services;

(10) shares, offers or promises to share his remuneration with another person who is not a holder of a certificate as an agent in damage insurance, except where provided for under the Act or this Regulation;

(11) pays or promises to pay a remuneration so that his services will be retained, except where provided for under the Act or this Regulation;

(12) engages in activities that are not authorized by his certificate or for the category indicated on this certificate or leads a person to believe that he is authorized to do so;

(13) falsely leads a person to believe that he is the holder of a specific certificate;

(14) makes a statement knowing it to be false;

(15) participates in the making up and conservation of evidence that he knows to be false or that is patently false;

(16) conceals or consciously omits to disclose that which the Act obliges him to disclose;

(17) advises or encourages a client to engage in an act that he knows to be illegal or fraudulent;

(18) in order to obtain a mandate, employs or pays a third party who is not authorized to perform this task under the Act or this Regulation;

(19) refuses or neglects, without justification, to go to the office of the supervision committee, of one of its members or of an investigator referred to under sections 143 and following of the Act, at the request of one of them;

(20) carries on his activities with persons who are not authorized to carry on such activities under the Act or this Regulation, or employs their services to do so;

(21) claims remuneration for professional services not provided or falsely described;

(22) allows, although he is not the true owner of a firm, his name to be used thereby leading persons to believe that he is the owner;

(23) makes, or allows the making of advertising which is not allowed under this Regulation;

(24) with malice, makes a complaint or an unfounded accusation against another agent in damage insurance;

(25) uses the Bankruptcy Act in order to release himself from his professional obligations.

202. The rules of conduct applicable to an agent in damage insurance apply, with the necessary changes, to such agent when he acts as a financial planner or uses the title thereof.

CHAPTER XVII

RULES OF CONDUCT APPLICABLE TO A CLAIMS ADJUSTER

DIVISION 1

GENERAL PROVISIONS

203. A claims adjuster shall reimburse the fund, in capital and interest, for every amount paid out to secure his liability under the circumstances mentioned in section 175 of the Act.

204. A claims adjuster shall not employ, to deal directly with the public, persons whose training or apprenticeship does not conform with the provisions of this Regulation.

205. A claims adjuster shall ensure that his employees and those of the firm through which he acts, comply with the provisions of the Act and this Regulation.

DIVISION II

DUTIES AND OBLIGATIONS TOWARDS THE PUBLIC

206. A claims adjuster shall, at all times, except for valid reasons, support every measure intended to protect the public.

207. A claims adjuster shall, except for valid reasons, support every measure likely to improve the quality of services in the field in which he carries on his activities.

208. A claims adjuster shall further education and information measures in the field in which he carries on his activities.

209. The conduct of a claims adjuster shall be characterized by objectivity, moderation and dignity.

210. A claims adjuster shall act promptly, honestly and fairly in the performance of his professional services as well as within the framework of the mandates entrusted to him.

211. The claims adjuster shall not:

(1) have an interest other than professional in the settlement of a claim;

(2) make or seek to make a personal profit from a matter entrusted to him, other than for his salary or his remuneration;

(3) ask any person whosoever, except the client or his representatives, to inform him of the occurrence of a claim;

(4) obtain or attempt to obtain from a person other than the client or his representatives details about an insurance policy, in order to be entrusted with the settlement of a claim;

(5) act or claim to act on behalf of a client without the authorization of the client;

(6) advise a client, an insured or a third party against having recourse to the services of another claims adjuster or a lawyer, or prevent them from doing so;

(7) mislead an interested party as to the identity of the client.

212. A claims adjuster may not falsely, by any means whatsoever, claim that he is certified, recommended, sponsored, approved by a third party, or affiliated or associated with the latter.

213. A claims adjuster shall not conceal evidence that he himself or the client has the legal obligation to hold, disclose or produce.

214. A claims adjuster shall not pay or offer to pay a witness a compensation that is conditional on the contents of his testimony or once a litigation has been settled.

215. A claims adjuster shall act in such a manner as not to mislead the opposing party or misuse its good faith.

216. A claims adjuster shall not, directly or indirectly, unduly hold back, steal, conceal, falsify, mutilate or destroy an exhibit.

217. A claims adjuster shall notify, not only the parties in question but also every person that he knows to have an interest in the compensation requested, of the refusals or actions that the insurer intends to take concerning the claim.

218. A claims adjuster shall cooperate with government institutions, police authorities and insurer investigation services by providing them upon request with every piece of information likely to assist in an investigation regarding fraud or any crime whatsoever.

219. A claims adjuster shall avoid every situation involving a conflict of interest and, as the case may be, he shall denounce it.

220. A claims adjuster shall in no case undertake claims adjustment work without having been previously mandated to do so.

221. In the carrying on of his activities, a claims adjuster shall clearly identify himself. Upon request, he shall present his certificate.

DIVISION III DUTIES AND OBLIGATIONS TOWARDS THE CLIENT

Par. 1 General provisions

222. Before accepting a mandate, a claims adjuster shall take into account the limits of his aptitudes, knowledge and the means at his disposal. He shall not, in particular, undertake or continue a mandate for which he is not sufficiently prepared, without obtaining the necessary assistance.

223. The claims adjuster shall not prevent a client from consulting another claims adjuster, a member of another discipline or any other qualified person.

224. A claims adjuster shall follow the instructions of the client.

225. A claims adjuster shall disclose to the client any information in his possession that might influence the decision regarding the settlement of a claim, in particular, contract violations, fraud, false representations and forging of evidence.

226. A claims adjuster shall disclose a double mandate to each of his clients.

Par. 2 Integrity

227. A claims adjuster shall return, when his mandate is over, any portion on his remuneration for which work was not performed.

228. A claims adjuster shall take reasonable care of the property entrusted to his custody by the client.

229. A claims adjuster shall refrain from endorsing a cheque made out to the client unless he has received from the latter a written authorization allowing him to do so and under the condition that the endorsement be solely done for deposit into a trust account.

230. A claims adjuster shall not withhold sums of money, deeds, documents or property belonging to a client, except in those cases where the Act so permits.

231. A claims adjuster shall cease his representation of a client if his mandate is revoked.

232. A claims adjuster shall submit to the client any offer of settlement.

233. A claims adjuster shall avoid increasing, without sufficient reason, the number of professional acts in the performance of a mandate.

Par. 3 Availability and diligence

234. In addition to the notices and advice, a claims adjuster shall provide the client with the explanations necessary to understand and appreciate the services that the adjuster is rendering.

235. A claims adjuster shall render an account to the client when the latter so requires and shall be diligent in his reports, accounting and remittances.

236. A claims adjuster shall not, except for good and reasonable cause, cease from acting on behalf of a client. Good and reasonable cause includes:

- (1) loss of the client's trust;
- (2) having been misled by a client or when he refuses to cooperate;
- (3) when the client incites the adjuster to engage in illegal, unjust, immoral or fraudulent acts;
- (4) when the client persists in refusing a fair settlement;
- (5) the fact that the claims adjuster is in a situation of a conflict of interests or in a context in which his professional independence might be called into question;
- (6) the refusal by the client to recognize an obligation related to expenses, disbursements or remuneration, or, after reasonable prior notice, the refusal to pay the claims adjuster a down payment to cover such costs.

237. A claims adjuster may unilaterally terminate a mandate after having taken the necessary steps to prevent the client from suffering a serious and foreseeable prejudice.

Par. 4 Liability

238. A claims adjuster shall not, in the carrying on of his activities, avoid or attempt to avoid his professional liability.

Par. 5 Independence and impartiality

239. A claims adjuster shall in no way impair the right of the client to choose another claims adjuster or another professional.

240. A claims adjuster shall not take into account the intervention of a third-party who might influence the performance of his professional obligations, to the detriment of the client.

241. A claims adjuster shall not borrow from the client sums of money that he has collected on the client's behalf.

242. Unless the Act or this Regulation so authorize, a claims adjuster shall refrain from receiving, in addition to the remuneration to which he is entitled, any consideration, refund or commission related to the carrying on of his activities. Similarly, he shall not pay, offer to pay, or promise to pay any consideration, refund or commission.

Par. 6 Professional secrecy

243. Except when the carrying on of his activities so requires, a claims adjuster shall respect the secrecy of all personal data he obtains.

244. A claims adjuster shall refrain from making indiscreet communications concerning a client or the services he provides to him.

245. A claims adjuster shall not use personal information obtained from a client to the detriment of the latter.

246. A claims adjuster may not accept a mandate or continue to carry it out if such mandate includes or may include the disclosure or use of confidential information and documents obtained from another client unless the latter gives his consent thereto.

247. A claims adjuster shall ensure that no employee discloses personal information concerning a client.

Par. 7 Accessibility to records

248. A claims adjuster shall allow a client to read documents that concern him in any file that the adjuster has prepared for such client and to obtain a copy thereof.

Par. 8 Determination and payment of remuneration

249. The remuneration set by a claims adjuster shall be fair and reasonable. It is fair and reasonable if it is supported by the circumstances and in proportion to the services rendered. The claims adjuster shall, in particular, take into account the following factors when determining his remuneration:

- (1) his experience;
- (2) the time spent on the matter;
- (3) the difficulty of the problem submitted;
- (4) the importance of the matter;
- (5) the responsibility assumed;
- (6) the performance of unusual services or services requiring exceptional competence or promptness;
- (7) the result obtained.

250. A claims adjuster shall ensure that the client is informed of the approximate and foreseeable cost of his services, except if he can reasonably assume that the client is already aware of such cost.

251. A claims adjuster shall provide the client with all explanations necessary to understand the adjuster's fee statement and the terms of payment, except where he has concluded a written agreement with the client to receive a lump-sum payment or where he may reasonably assume that the client is already aware of the amount.

252. A claims adjuster may only receive interest on an overdue account after having duly notified the client thereof. The interest charged shall be at a reasonable rate.

253. A claims adjuster shall promptly notify the client of every violation, fraud or circumstance that might reduce or compromise his right to compensation.

254. A claims adjuster shall notify the client of ties and interests that third-parties may have and suggest settlements that take these ties and interests into account.

DIVISION IV

DUTIES AND OBLIGATIONS TOWARDS INSURERS

255. A claims adjuster shall not misuse the good faith of an insurer or become guilty of an abuse of trust or disloyal practices regarding such insurer.

256. A claims adjuster shall not make false representations to the insurer to the effect that he is in charge of settling a claim.

DIVISION V

DUTIES AND OBLIGATIONS TOWARDS MARKET INTERMEDIARIES IN DAMAGE INSURANCE

257. A claims adjuster shall use loyal solicitation and competition methods.

258. A claims adjuster shall not discredit another market intermediary in damage insurance.

259. A claims adjuster shall not misuse the good faith of another market intermediary in damage insurance or be guilty of an abuse of trust or disloyal practices.

260. Unless the Act or this Regulation so authorizes, a claims adjuster shall refrain from sharing his remuneration with a person who is not a market intermediary in damage insurance. Nor shall a claims adjuster give that person a share or renounce such share in advance, in his favor.

261. A claims adjuster shall cooperate with other market intermediaries in damage insurance insofar as he causes no prejudice to his client or to the parties involved in a claim.

DIVISION VI

DUTIES AND OBLIGATIONS TOWARDS THE COUNCIL

262. A claims adjuster when asked by the Council to participate in a disciplinary or supervision committee shall accept this duty unless he is able to justify his refusal for an exceptional reason.

263. A claims adjuster shall respond forthwith to all correspondence from the Council, from one of its members, from its secretary or a member of its staff, or from an investigator referred to in section 143 and following of the Act, in the performance of the duties entrusted to them under the Act or this Regulation.

264. A claims adjuster shall not intervene vis-à-vis the complainant without the prior written permission of the Chairman or a member of the supervision committee, when he is informed of an investigation concerning him.

DIVISION VII

BREACHES OF THE RULES OF CONDUCT

265. The following shall constitute a breach of the rules of conduct. The fact that a claims adjuster:

- (1) ceases to meet requisite conditions for holding a certificate as a market intermediary in damage insurance;
- (2) carries on his activities dishonestly or neglectfully;

(3) admits his guilt or is found guilty of a criminal act related to the activity of a market intermediary;

(4) contravenes any provision of An Act respecting market intermediaries;

(5) contravenes any provision of the by-laws of the Council or government regulations that apply to him;

(6) assigns his property or has been put in receivership under the Bankruptcy Act, except if the assignment of property or the putting in receivership is the result of causes independent of the carrying on of the activities of a market intermediary;

(7) pays directly or indirectly a remuneration to a person who does not hold a certificate as a claims adjuster in order that the person act in this capacity or take on the title;

(8) accepts or has himself paid, directly or indirectly, a remuneration from a person who, without being the holder of a certificate as a claims adjuster, acts or attempts to act in this capacity;

(9) accepts or has himself paid, directly or indirectly, a remuneration that is not authorized by the Act or this Regulation from a person other than the one who retained his services;

(10) shares, offers or promises to share his remuneration with another person who is not a holder of a certificate as a claims adjuster, except where provided for under the Act or this Regulation;

(11) pays or promises to pay a remuneration to a third party so that his services be retained, except where provided for under the Act or this Regulation;

(12) engages in activities that are not authorized by his certificate or for the category indicated on this certificate or leads a person to believe that he is authorized to do so;

(13) falsely leads a person to believe that he is the holder of a specific certificate;

(14) consciously takes advantage of perjury or false evidence;

(15) makes a statement knowing it to be false;

(16) participates in the making up and conservation of evidence that he knows to be false or that is patently false;

(17) conceals or consciously omits to disclose that which the Act obliges him to disclose;

(18) advises or encourages a client to engage in an act that he knows to be illegal or fraudulent;

(19) fails to inform the client or the opposing party when he ascertains an impediment to the pursuit of his mandate;

(20) encourages a person in a pressing or repetitious way to resort to his professional services;

(21) demands from a client advances that are disproportionate to the nature and circumstances of the claim and the state of the parties;

(22) employs or pays a third party to engage in solicitation, although he is not authorized to do so under the Act or this Regulation;

(23) refuses or neglects, without justification, to go to the office of the supervision committee, of one of its members or of an investigator referred to under sections 143 and following of the Act, at the request of one of them;

(24) carries on his activities with persons who are not authorized to do so under the Act or this Regulation, or employs their services to do so;

(25) claims remuneration for professional services not provided or falsely described;

(26) allows, although he is not the true owner of a firm, his name to be used thereby leading people to believe that he is the owner;

(27) makes, or allows the making of advertising which is not allowed under this Regulation;

(28) with malice, makes a complaint or an unfounded accusation against another market intermediary in damage insurance;

(29) uses the Bankruptcy Act in order to release himself from his professional obligations.

266. The rules of conduct applicable to a claims adjuster is apply, while taking necessary adaptations into account, to such adjuster when he acts as a financial planner or uses the title thereof.

CHAPTER XVIII

TRANSITIONAL MEASURES RELATED TO THE RIGHTS OF MARKET INTERMEDIARIES TO CARRY ON THEIR ACTIVITY

267. Any natural person, partnership or legal person who was, between November 1, 1986 and the effective date of this Regulation, a member of the Association or the holder of an insurance agent's or claims adjuster's certificate issued by the Inspector General of Financial Institutions, is entitled to the issue of a certificate by the Council upon payment of the dues and contributions provided in chapters IX and XIII, as the case may be.

Such natural person, partnership or legal person shall, in addition, comply with the conditions of issue provided in section 9, excepting subsections 1 to 3 for a natural person, section 17 for a partnership and section 19 for a legal person.

Such natural person, partnership or legal person shall also forward to the Council the documents and information provided in section 15 for a natural person, section 18 for a partnership and section 20 for a legal person. In addition, he or it shall specify the category(ies) of certificate that he or it held or in which he or it carried on his or its activities.

268. The Council issues to a natural person, partnership or legal person referred to in section 267 a certificate corresponding to the category(ies) of certificate that he or it held or in which he or it carried on his or its activities. This certificate enables its holder to deal in the fields of personal lines and commercial lines insurance.

However, a second class claims adjuster may, upon request, obtain a first class claims adjuster's certificate if he has dealt in the field of claims adjustment for at least 5 years.

In addition, the claims adjuster's certificate issued to a person referred to by the second paragraph of section 80 of the Act shall mention that its holder is limited to the activity of appraising the value of property and shall be entitled as such.

269. A broker in damage insurance who, on the day preceding the effective date of section 7 of the Act, legally carries on his activities as insurance broker and is authorized by Lloyd's to deal as a claims adjuster regarding claims arising from insurance policies written with them through his intermediation, that of his

employer or that of the firm for which he works, may continue his activities as such.

270. The associates or employees of a person who was granted an authorization in conformity with section 269 of this Regulation, benefit from the said authorization insofar as they are holders of a broker's or insurance agent's certificate in damage insurance.

271. The person referred to in section 269 of this Regulation, loses such entitlement as soon as he becomes the holder of a claims adjuster's certificate for the category(ies) of business, as the case may be, for which he is authorized by Lloyd's to write insurance policies.

272. Subject to forfeiture of rights granted under section 269 of this Regulation, the person referred to shall forward a sworn statement or solemn affirmation to the Council, at the latest 90 days after the effective date of section 7 of the Act, stating that he is bound by contract to Lloyd's on this latter date, that he still remains bound and that he meets all conditions provided in the said section.

273. As soon as a person referred to in section 269 ceases to be bound by contract to Lloyd's or falls within the scope of section 271 of this Regulation, he shall immediately inform the Council thereof and henceforth refrain from carrying on the activity of a claims adjuster, unless he is the holder of the certificate required by the Act, or is authorized under the provisions of section 32 of this Regulation.

CHAPTER XIX

MISCELLANEOUS TRANSITIONAL MEASURES

274. A market intermediary in damage insurance shall disclose his form of remuneration and, as the case may be, the sharing of the commission at the time of his first written communication with a client after the effective date of this Regulation.

In the case of the renewal of an insurance policy whose expiry date occurs within 90 days after the effective date of this Regulation, the disclosure may be made outside this 90-day period provided that it is made no later than at the time of the first written communication with the client.

275. A special \$35 contribution to the compensation fund shall be payable by each market intermediary in damage insurance 30 days after the effective date of this Regulation and shall be paid to the fund, at the head office, on such date.

276. The first annual contribution to the fund is due January 1, 1992.

The annual contributions prescribed by Division III of Chapter IX of this Regulation exigible for the year during which this Regulation comes into effect shall be calculated proportionate to the period of time left between the effective date of this Regulation and the end of the year.

Contributions referred to in the first paragraph shall be paid to the Council within 3 months of the effective date of this Regulation.

277. Despite the provisions of section 156 of this Regulation, a franchisee who, on the effective date of this section, possesses equipment that does not comply with this section, may use such equipment within the 12 months following such effective date.

CHAPTER XX

MISCELLANEOUS AND FINAL PROVISIONS

278. The provisions of this Regulation which are applicable to a market intermediary in damage insurance shall apply, unless the context indicates otherwise, to a firm, with the necessary changes.

279. This Regulation shall come into force on the fifteenth day following its publication in the *Gazette officielle du Québec* or on the effective date of sections 5, 7 and 13 of the first sentence of the first paragraph of section 29 and of section 42 of An Act respecting market intermediaries (1989, c. 48), if this date is later than such fifteenth day.

SCHEDULE I

(s. 35, ss. 1)

DECLARATION MADE BY THE INSURED TO THE SPECIAL BROKER ACTING WITH AN INSURER NOT HOLDING A LICENCE IN QUEBEC

An Act respecting market intermediaries
(1989, c. 48, s. 13)

The undersigned -

1- Identification of the insured

Name: _____

Address: _____

Telephone number: _____

states that concerning the following property or other interests to be insured

2- Designation and location of the risks to be insured

(a) Description of the risk:

(b) Exact address of the risk:

the following insurers, holders of a licence in Québec

- 3- Identity of the insurers having refused to grant the requested insurance

(a) _____

(b) _____

(c) _____

have refused to grant me the damage insurance requested in the amount of

- 4- Amount of insurance requested

_____ \$.

IMPORTANT

In addition, I also state that I have been informed by the broker or his representative that:

(a) the requested insurance could not be obtained at a reasonable rate from licensed insurers in Québec;

(b) the insurer with whom the risk has been placed is not licensed in Québec;

(c) this insurer is not subject to the supervision of the Inspector General of Financial Institutions, and does not file therewith the statements and reports provided under the Insurance Act;

(d) this insurer is not required to keep sufficient reserves for guaranteeing its obligations towards its insureds in Québec.

IN WITNESS WHEREOF, I have signed this statement,

at: _____

on: _____

Signature of the insured
(in the case of a legal person, the
signature of its duly authorized
representative)

Witness

SCHEDULE II

STATEMENT RELATING TO THE TRUST ACCOUNT AND BOOKS AND REGISTERS PERTAINING THERETO

I, the undersigned _____,

(name in capital letters)

domiciled and residing at _____,

(address)

as holder of the following market intermediary certificates:

categories of certificates

numbers

_____	_____
_____	_____
_____	_____

state the following:

1.1 I carry on my market intermediary activities

(a) alone yes () no ()

if yes, write in the firm name, if any

office address _____

(b) through a partnership yes () no ()

if yes, write in the firm name _____

address of the principal establishment _____

and the names of all the partners _____

(c) with a legal person

yes () no ()

if yes, write in the corporate name of the legal person: _____

address of its head office _____

position of the undersigned officer _____

1.2 I (we) keep a trust account and the books and registers pertaining thereto in conformity with the by-laws of the Council for market intermediaries in damage insurance;

- 1.3 Between and
(to be determined according to instructions
of the investigator)

this (these) trust account(s) was (were) at

Financial Institution(s)	Account Name(s)	Account Number(s)
-----------------------------	--------------------	----------------------

(write in all the names of financial institutions where
there is or were trust accounts, all the numbers of these
accounts as well as the names they bear)
(if space is insufficient, append a list hereafter)

- 1.4 On
(specify date according to the instructions of the
investigator)

there was deposited in this (these) account(s) the sums
indicated hereafter

Financial Institution(s)	Account No.	Amount
-----------------------------	-------------	--------

(if space is insufficient, append a list hereafter)

- 1.5 Between and
(to be determined according to instruc-
tions of the investigator)

I (we) held in trust the following time deposit certi-
ficates:

Certificate No.	Amount	Issue	Due Date	Deposi- tory Insti- tution
--------------------	--------	-------	-------------	-------------------------------------

(if space is insufficient, append a list hereafter)

- 1.6 I hereby authorize the supervision committee of the
Conseil des assurances de dommages or the committee
of the Association des courtiers d'assurances de la
province de Québec, as well as all persons referred to
under sections 143 and following of An Act respecting
market intermediaries to carry out the inspection of this
(these) account(s).

Sworn before me on _____

this _____ day of

19 ____

(Commissioner for oaths)

Name of the market intermediary

(Signature of the market intermediary)

Office: _____

Phone: _____

Domicile: _____

Phone: _____

4871

Draft Regulation

An Act respecting market intermediaries
(1989, c. 48)

Market intermediaries in insurance of persons

The Minister for Finance gives notice, in accordance with
sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1),
that the By-law of the Association des intermédiaires en assu-
rance de personnes du Québec, adopted by the Association and
the text of which appears below, will be submitted to the Govern-
ment for approval upon the expiry of 45 days following the
publication of this notice in the *Gazette officielle du Québec*. The
Government may approve it with or without amendments.

Any person having comments to make is asked to send them in
writing, before the expiry of the 45-day period, to Mrs. Louise
Robic, Minister for Finance, 12, rue Saint-Louis, 1^{er} étage,
Québec (Québec), G1R 5L3, with a copy to the Inspector Gen-
eral of Financial Institutions, 800, place d'Youville, 9^e étage,
Québec (Québec), G1R 4Y5.

LOUISE ROBIC,
Minister for Finance

By-law of the Association des intermédiaires en assurance de personnes du Québec

An Act respecting market intermediaries
(1989, c. 48, s. 104)

DIVISION I MEMBERSHIP

§1. Conditions for admission

1. To be admitted to membership of the Association des intermédiaires en assurance de personnes du Québec, an individual shall apply in writing and:

1° provide his name, surname, and style and cause where applicable;

2° provide his date of birth;

3° provide his social security number;

4° provide his personal address;

5° provide his business address;

6° provide the nature of his present employment;

7° provide his academic education;

8° attach a written confirmation that he applied for a market intermediary in insurance of persons individual certificate with the Conseil des assurances de personnes;

9° indicate all other certificates obtained in accordance with the Act respecting market intermediaries (1989, c. 48) or where applicable indicate whether he is registered with the Commission des valeurs mobilières du Québec;

10° attach a signed statement certifying that he will act as a market intermediary in insurance of persons and hold himself out as an insurance agent or insurance broker in accordance with section 1 of the Act, according to the activities he intends to practice;

11° attach a certificate of civil liability insurance issued in accordance with the Conseil des assurances de personnes' By-law respecting market intermediaries in insurance of persons;

12° pass the Association's authorized exam relating to the rules of conduct applicable to a market intermediary in insurance of persons, with a mark of at least 70 %;

13° attach to his application payment of the membership fees provided for in the Association des intermédiaires en assurance de personnes du Québec's By-law respecting membership fees payable adopted by decree 1977-89 on December 20, 1989;

14° take the oath of office or make the solemn declaration as provided for in Schedule A.

2. In case of failure, the applicant is entitled to rewrite the exam which takes place within 3 months from the initial exam;

3. In case of a second failure, the applicant can submit a new exam application only after a six (6) months waiting period has elapsed;

4. Upon an applicant's request, the Association shall review his exam and advise him of the result.

5. To be admitted to membership in the Association, a partnership shall apply in writing and provide the following documents and information:

1° its style and cause and the addresses of its head office and all places of business in Québec;

2° its partners' names, surnames, domicile and occupation and, where applicable, the partners' corporate name and address of their head office, and the indication among these of the affiliated financial institutions, financial groups or corporations whose interest exceeds 20 % and where applicable the partners' market intermediary in insurance of persons' certificate number;

3° a written confirmation that it applied for a market intermediary in insurance of persons certificate for firms with the Conseil des assurances de personnes;

4° a signed statement by a representative generally or specially authorized for such purpose certifying that the partnership will act as a market intermediary in insurance of persons and hold itself out as an insurance agent or insurance broker according to the activities it intends to practice;

5° the names, surnames, domicile and occupation of any other person acting on behalf of the partnership;

6° the names, surnames, domicile and occupation of the individuals through whom it carries on activities as a market intermediary in insurance of persons and proof that they are members of the Association and hold a certificate issued by the Conseil des assurances de personnes;

7° proof that the individuals in its employ who deal directly with the public have the qualifications and skills required by the Conseil des assurances de personnes's By-law;

8° a certified copy of the registration of its style and cause and any amendments;

9° the partner's name and surname who shall provide liaison with the Association.

Furthermore, a partnership shall include with its application payment of the membership fees payable by a firm, as provided for in the Association des intermédiaires en assurance de personnes du Québec's By-law respecting membership fees payable.

6. To be admitted to membership in the Association, a corporation shall apply in writing and provide the following documents and information:

1° its corporate name and addresses of its head office and all places of business in Québec;

2° the names, surnames, domicile and occupation of its directors and officers;

3° the names, surnames, domicile and occupation of any other individual acting on behalf of the corporation;

4° written confirmation that it applied for a market intermediary in insurance of persons certificate for firms with the Conseil des assurances de personnes;

5° the names, surnames, domicile and occupation of the individuals through whom it carries on activities as a market intermediary in insurance of persons and proof that they are members of the Association and hold a certificate issued by the Conseil des assurances de personnes;

6° a signed statement by a representative generally or specially authorized for such purpose certifying that the corporation will act as a market intermediary in insurance of persons and hold itself out as an insurance agent or insurance broker according to the activities it intends to practice;

7° proof that the individuals in its employ who deal directly with the public have the qualifications and skills required by the Conseil des assurances de personnes's By-law;

8° the shareholders' names, surnames, domicile and occupation and, where applicable, the shareholders' corporate name and address of their head office and the indication among these of the affiliated financial institutions, financial groups or corporations which, directly or indirectly, hold over 20 % of their shares or of the rights related to such shares;

9° the amount of its share capital, number of the shares of the share capital, and number of shares subscribed for;

10° a copy of its articles of incorporation and any amendments;

11° the officer's name and surname who shall provide liaison with the Association.

Furthermore, a corporation, shall include with its application payment of the membership fees payable by a firm, as provided for in the Association des intermédiaires en assurance de personnes du Québec's By-law respecting membership fees payable.

7. A notice of any change or any amendment in respect of the information provided for in sections 1, 5 and 6 shall be forwarded to the Association within a 30 day delay following such change or amendment.

§2. Conditions for refusal

8. An individual shall be refused admission or readmission to membership by the Association if he:

1° has pleaded guilty or been found guilty of an indictable offence having a connection with a market intermediary activity or has served a sentence subsequent to such act within the past five years, unless a pardon has been granted;

2° is under curatorship or tutorship;

3° is bankrupt or has voluntarily assigned his property under the terms of the Bankruptcy Act (R.S.C., c. B-3) and has not been discharged;

4° does not meet the conditions provided for in section 1.

9. A partnership shall be refused admission or readmission to membership by the Association if one of the individuals through whom it carries on activities as a market intermediary in insurance of persons:

1° has pleaded guilty or been found guilty of an indictable offence having a connection with a market intermediary activity or has served a sentence subsequent to such act within the past five years, unless a pardon has been granted;

2° is under curatorship or tutorship;

3° is bankrupt or has voluntarily assigned his property under the terms of the Bankruptcy Act and has not been discharged.

Furthermore, a partnership shall be refused admission or readmission to membership by the Association if it does not meet the conditions provided for in section 5.

10. A corporation shall be refused admission or readmission to membership by the Association if it:

1° has pleaded guilty or been found guilty of an indictable offence having a connection with a market intermediary activity or has served a sentence subsequent to such act within the past five years, unless a pardon has been granted;

2° is bankrupt or has voluntarily assigned its property under the terms of the Bankruptcy Act and has not been discharged;

3° does not meet the conditions provided for in section 6.

For the purposes of subdivisions 3 to 5 inclusive of division I, the words "he", "him", "his" and "who" shall apply to all

members, whether they be individuals, partnerships or corporations.

§3. Conditions for renewal

11. To be eligible for membership renewal when the annual membership fees become due, a member shall request it in writing 30 days prior to the membership due date and:

1° paid the membership fees provided for in the Association des intermédiaires en assurance de personnes du Québec's By-law respecting membership fees payable;

2° paid outstanding fines, where applicable;

3° not be expelled or suspended from the Association.

Furthermore a member shall have successfully completed the Association's Professional Training level I course at the time of renewal after completion of two years of membership at the Association, as well as the Association's Professional Training level II course at the time of his renewal after completion of five years of membership.

§4. Conditions for suspension or expulsion

12. A member shall be suspended from the Association if:

1° his right to carry on activities as a market intermediary in insurance of persons has been suspended by the Association's disciplinary committee;

2° his membership fees have not been paid, with the exception of the "Chartered Life Underwriter" (C.L.U.)'s fees;

3° he falls within one of the circumstances provided for in subsection 3 of section 8, subsection 3 of the first paragraph of section 9, or subsection 2 of section 10, depending whether he is an individual, a partnership or a corporation;

4° his certificate issued by the Conseil des assurances de personnes authorizing him to act as a market intermediary in insurance of persons has been suspended.

13. A member shall be expelled from the Association if:

1° he no longer has the right to carry on activities as a market intermediary following a decision from the Association's disciplinary committee;

2° he falls within one of the circumstances provided for in subsections 1° and 2° of section 8, subsections 1° and 2° of the first paragraph of section 9, or subsection 1° of section 10, depending whether he is an individual, a partnership or a corporation;

3° the certificate issued by the Conseil des assurances de personnes authorizing him to act as a market intermediary in insurance of persons has been cancelled;

4° the Conseil has not delivered him a certificate within 30 days of the initial application or renewal application;

Furthermore, a firm which ceases to carry on, through market intermediaries in insurance of persons, activities as such or which is dissolved, wound up or otherwise ceases its operations shall be expelled from the Association.

Moreover, an individual requesting his exclusion or one who has died shall be expelled from the Association.

14. A suspension or expulsion from the Association imposed under sections 12 or 13 shall not result in reducing the amount of membership fees, which shall remain payable by the member.

15. A suspension or expulsion from the Association imposed under subsections 2° and 3° of section 12, or subsection 2° of the first paragraph of section 13, or the second paragraph of section 13 shall be preceded by a notice sent by registered or certified mail or otherwise served pursuant to the Code of Civil Procedure (R.S.Q., c. C-25).

16. A suspension or expulsion imposed under sections 12 or 13 shall be followed by a notice forwarded to the Conseil des assurances de personnes and the Inspector General of Financial Institutions. Said notice shall indicate the reason, length of time and date from which the suspension or expulsion takes effect.

17. A suspension from the Association shall be lifted when the basis for it ceases to exist.

§5. Conditions for readmission

18. The Association shall readmit as a member an individual, a partnership or a corporation who has not been a member since less than two (2) years, upon written request accompanied by payment of the membership fees and who:

1° meets the conditions provided for in subsections 1° to 11° and 13 and 14° of section 1 or in sections 5 or 6;

2° does not fall within one of the circumstances provided for in sections 8, 9 or 10;

3° pays arrears in membership fees, amounts due, and accrued interest;

4° has paid outstanding fines.

DIVISION II TITLES

§1. Registered Life Underwriter

19. To obtain the title of Registered Life Underwriter, a market intermediary in insurance of persons shall be a member and shall:

1° have successfully completed the level I course provided by the Association, relating to life insurance companies, life insurance products and sales techniques, or have held a certificate of insurance agent for over one year and passed the level I equivalence exam, or passed the aptitude test;

2° have successfully completed the level II course provided by the Association, relating to commercial insurance, professionals, companies, and employee benefits, or have passed the aptitude test;

3° have taken the level III course provided by the Association, relating to the introduction to financial planning, or have successfully completed the university certificate in insurance of persons' personal financial planning course described in paragraph j of subsection 2° of the first paragraph of section 21, or have successfully completed the financial planning course of the training course which lead to the Life Underwriters Association of Canada's Chartered Life Underwriter's title and have passed the Association's exam leading to this title;

4° not be under a suspension.

Furthermore, said member shall apply in writing to the Association and include the documents attesting that he meets subsections 1° to 3° of the first paragraph.

20. The Association shall deliver the member a document certifying that he was awarded the title of Registered Life Underwriter.

§2. Chartered Life Underwriter

21. To obtain the title of Chartered Life Underwriter, a market intermediary in insurance of persons must be a member and:

1° comply with the training requirements provided for in subsections 1° and 2° of section 19;

2° have successfully completed the training course leading to the title, provided for in the university program in insurance of persons; the program includes 12 courses relating to the following subjects:

- (a) human relations — sales — marketing;
- (b) commercial law;
- (c) economics;
- (d) accounting;
- (e) corporate finance;
- (f) taxation I;
- (g) taxation II;
- (h) life insurance principles;
- (i) group pensions and insurance;
- (j) personal financial planning;
- (k) estate planning principles;
- (l) estate planning practice;

or

have successfully completed the courses provided by the Life Underwriters Association of Canada relating to the same subjects as those provided for in subparagraphs a to l of the first paragraph, as long as the member was unable otherwise to gain access to these courses in his region;

or

have successfully completed, in another Canadian province, courses relating to the same subjects as those provided for in subsection 1° and subparagraphs a to l of the first paragraph;

3° not be under a suspension.

Furthermore, the member shall apply in writing to the Association and include the documents attesting that he meets the provisions of subsections 1° and 2° or 3° of the first paragraph.

The member shall also have paid the fees of "Chartered Life Underwriter" (C.L.U.) provided for in the Association des intermédiaires en assurance de personnes du Québec's By-law respecting membership fees payable.

22. The Association shall deliver the member a document certifying that he was awarded the title of Chartered Life Underwriter.

23. A member who was awarded the title of Chartered Life Underwriter shall cease using the title of Registered Life Underwriter.

§3. Withdrawal of title

24. A market intermediary in insurance of persons shall not be authorized to use his title of Registered Life Underwriter or Chartered Life Underwriter while he is under a suspension or expulsion from the Association imposed in accordance with this By-law.

25. A market intermediary in insurance of persons shall not be authorized to use his title of Chartered Life Underwriter in default of not paying for over 30 days the Chartered Life Under-

writer fees provided for in the Association des intermédiaires en assurance de personnes du Québec's By-law respecting membership fees payable.

26. A market intermediary in insurance of persons shall not be authorized to use his title of Registered Life Underwriter or Chartered Life Underwriter as long as a disciplinary complaint, filed before or after he ceased carrying on activities as a market intermediary in insurance of persons, has not been rejected by a final decision.

DIVISION III FINAL PROVISION

27. This By-law shall come into force on June 1st, 1991.

SCHEDULE A

(Subsection 14, s. 1)

OATH OR SOLEMN DECLARATION

I, _____, swear
(or solemnly declare) that I shall carry on activities as a market intermediary in insurance of persons with honesty, loyalty and justice.

I shall faithfully fulfill the mandates with which I am entrusted.

I shall comply with the Act respecting market intermediaries (1989, c. 48) and its regulations and shall always take care not to compromise the honour and dignity of the activity which I undertake today.

Signature

Sworn or solemnly declared before me
in
this _____ day of _____ 19____

4876

Draft Regulation

An Act respecting market intermediaries
(1989, c. 48)

Market intermediaries in insurance of persons

The Minister for Finance gives notice, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the Regulation respecting the Conseil des assurances de personnes relating to market intermediaries in insurance of persons, adopted by the Conseil and the text of which appears below, will be submitted to the Government for approval upon the expiry of 45 days following the publication of this notice in the *Gazette officielle du Québec*. The Government may approve it with or without amendments.

Any person having comments to make is asked to send them in writing, before the expiry of the 45-day period, to Mrs. Louise Robic, Minister for Finance, 12, rue Saint-Louis, 1^{er} étage, Québec (Québec), G1R 5L3, with a copy to the Inspector General of Financial Institutions, 800, place d'Youville, 9^e étage, Québec (Québec), G1R 4Y5.

LOUISE ROBIC,
Minister for Finance

Regulation respecting the Conseil des assurances de personnes relating to market intermediaries in insurance of persons

An Act respecting market intermediaries
(1989, c. 48, a. 78)

CHAPTER I MARKET INTERMEDIARY CERTIFICATE IN INSURANCE OF PERSONS

DIVISION I CATEGORIES

1. The categories of certificates of market intermediaries in insurance of persons issued by the Conseil des assurances de personnes are:

- (1) a trainee's certificate in insurance of persons;
- (2) an individual insurance agent's certificate in insurance of persons;
- (3) an individual insurance broker's certificate in insurance of persons;
- (4) a firm's certificate in insurance of persons.

2. The holder of a trainee's certificate in accordance with the provision of subsection 1 of section 1 shall only be a natural person.

This certificate allows its holder to carry on the activity of a market intermediary in insurance of persons under the authority and responsibility of an individual certificate holder in accordance with subsections 2 or 3 of section 1 without any of the restrictions provided in subsection 7 of section 18.

The intermediary under whose responsibility the trainee acts, is liable for the acts performed by the latter.

DIVISION II CONDITIONS OF ISSUANCE

3. To obtain a trainee's certificate, a natural person shall apply in writing, have the application counter-signed by the intermediary referred to in subsection 13 of section 8 and meet the following conditions:

- (1) be a member of the Association des intermédiaires en assurance de personnes du Québec;
- (2) be the holder:

- (a) of a secondary school diploma or of an attestation of equivalence recognized by the ministère de l'Éducation, for any application for a certificate presented prior to January 1, 1993;
- (b) of a Diploma of Collegial Studies or of an attestation of equivalence recognized by the ministère de l'Enseignement supérieur et de la Science,

or

of a secondary school diploma and have 4 years of experience, recognized by the Council, in one or more of the following sectors:

- i. financial counselling;
- ii. financial services sales;
- iii. representation in financial services;
- iv. management in a financial undertaking;
- v. insurance;

vi. being the owner or manager of an undertaking;
for any application for a certificate presented as of January 1, 1993;

(3) successfully take and pass the examination of the Council involving the following fields:

- (a) the basic principles of insurance of persons;
- (b) the insurance of persons industry;
- (c) the industry of other financial services;
- (d) the role of the market intermediary in insurance of persons, the rules of conduct applicable to such intermediary and his responsibilities;
- (e) the products in insurance of persons and those in other financial services;
- (f) the legislation and regulations applicable to the insurance of persons.

The contents of the subjects covered in the examination provided in the first paragraph are found in a manual prepared and distributed by the Council. The manual may be replaced or completed by any other form of educational material.

(4) not have admitted guilt to or not have been found guilty of a criminal act related to the activity of market intermediary or be subject to a sentence resulting from such an act within the 5 years preceding his application for a certificate, unless a pardon has been granted;

(5) not be placed under curatorship or tutorship;

(6) not have assigned his property or not have been put in receivership under the Bankruptcy Act (R.S.C., c. B-3), and not have been released;

(7) not be subject to a suspension of a certificate;

(8) no longer be in the situation that caused the cancellation of a certificate, if applicable;

(9) have reimbursed, if applicable, sums disbursed by the Fonds d'indemnisation en assurance de personnes, plus interest and costs;

(10) pay the dues and contributions provided in Chapters VII and IX.

4. To successfully pass the examination provided in subsection 3 of section 3, a candidate shall obtain a minimum percentage of 70 %.

The Council shall forward the results by mail to the candidate.

5. In the event of failure, the candidate is entitled to sit for a second examination which is held within 3 months of the first examination.

6. In the event of failure of the second examination, the candidate is not entitled to file a new application for an examination until the end of a six-month waiting period after the second examination.

7. Upon the candidate's request, the Council shall re-evaluate his examination and notify him of the results.

8. In addition, the applicant shall forward to the Council the following documents and information.

- (1) his surname and given name and commercial name, if any;
- (2) his social insurance number;

(3) 2 photographs not more than 6 months old, endorsed on the reverse side by one of the following persons who personally has known the applicant for at least 2 years:

— A professional within the meaning of the Professional Code (R.S.Q., c. C-26);

— A member of the staff of a bank or trust company empowered to sign; a full-time administrator of a credit cooperative;

— A commissioner for oaths;

(4) his personal address over the past 5 years;

(5) his business address over the past 5 years;

(6) the business address where he will carry on his activities as market intermediary in insurance of persons;

(7) the occupations he has had over the past 5 years;

(8) his academic background;

(9) his diploma of secondary studies or his diploma of collegial studies or an attestation of equivalence issued under the authority of the ministère de l'Éducation or the ministère de l'Enseignement supérieur et de la Science in conformity with subsection 2 of section 3;

(10) necessary information about experience so that the Council may rule on the appropriateness of recognizing relevant experience for the applicant within the meaning of subsection 2b of section 3.

(11) the other certificates that he has obtained in conformity with An Act respecting market intermediaries (1989, c. 48), or, if applicable, his registration with the Commission des valeurs mobilières du Québec;

(12) the diploma awarded to him by the Québec Institute of financial planning recognized by the Minister under section 30 of the Act, if applicable;

(13) the name of the market intermediary in insurance of persons under whose authority and responsibility he shall perform his training period as provided in section 2;

(14) an attestation of insurance coverage of professional liability in conformity with Chapter V.

9. To obtain an individual certificate, a natural person shall apply in writing and meet the following conditions:

(1) be the holder of the certificate provided in subsection 1 of section 1;

(2) meet the conditions of issuance provided under section 3, except for subsections 2 and 3;

(3) have, within 12 months of successfully passing the examination provided in subsection 3 of section 3:

(a) completed a 3 month training period in conformity with the provisions of section 2;

(b) taken and successfully passed the examination of the Council involving the practical application of the subjects listed in paragraphs a to f of subsection 3 of section 3, including the analysis of client needs, the evaluation of the client's financial position and capacity to pay and the recommendation of appropriate products;

Section 4 to 7 apply to the examination provided in the first paragraph.

(4) pay the dues and contributions provided in chapters VI and IX.

10. The person requiring an individual certificate in compliance with the provisions of the preceding section, shall in addition provide the following documents and information:

(1) an attestation from the certificate holder under whose authority and responsibility the training period was completed;

(2) his personal address and the business address where he shall carry on his activities, if they are different from the ones provided when applying for the trainee's certificate;

(3) if applicable, if the situation has changed since the application for his trainee's certificate:

(a) the other certificates that he has obtained in conformity with An Act respecting market intermediaries (1989, c. 48);

(b) his registration with the Commission des valeurs mobilières du Québec;

(c) the diploma awarded to him by the Québec Institute of financial planning recognized by the Minister under section 30 of the Act.

(4) a signed statement attesting that he shall practise as an agent or broker within the meaning defined under the Act;

(5) an attestation of insurance coverage of professional liability in conformity with Chapter V.

11. An individual certificate replaces, upon its issuance, a trainee's certificate. The trainee's certificate is only valid for a maximum period of 12 months and is not renewable.

12. A natural person who solicits an individual certificate, is exempt from the examinations and training period whenever:

(1) he has been without a certificate for 1 year or less, if his preceding certificate was in force for 1 or more years;

(2) he has been without a certificate for 2 years or less, if his preceding certificate was in force for 2 years or more;

(3) he has been without a certificate for 3 years or less, if his preceding certificate was in force for 3 years or more;

(4) he has been without a certificate for 4 years or less, if his preceding certificate was in force for 4 years or more;

(5) he has been without a certificate for 5 years or less, if his preceding certificate was in force for 5 years or more;

13. To obtain a certificate, a partnership shall apply in writing and meet the following conditions:

(1) be a member of the Association;

(2) not be subject to a suspension of a certificate;

(3) no longer be in the situation that caused the cancellation of the certificate, if applicable;

(4) pay the dues provided in Chapters VI;

(5) have reimbursed, if applicable, sums disbursed by the Fonds d'indemnisation en assurance de personnes, plus interest and charges.

14. In addition, this partnership shall forward to the Council the following documents and information:

(1) its firm name and the address of its principal establishment as well as that of all establishments in Québec;

(2) the surname, given name, domicile and profession of its partners;

(3) the surname, given name, domicile of one of the market intermediaries through whom the partnership shall act;

(4) a signed statement by a representative generally or specially authorized for such purpose, attesting that the partnership is not a multidisciplinary firm within the meaning of section 42 of the Act;

(5) a copy of the registration of its firm name and of all its amendments, if any;

(6) the surname and given name of the person who shall ensure liaison with the Council.

15. To obtain a certificate, a legal person shall apply in writing and meet the following conditions:

(1) be a member of the Association;

(2) not have admitted guilt to or not have been found guilty of a criminal act related to the activity of market intermediary or be subject to a sentence resulting from such an act within the 5 years preceding its application for a certificate, unless a pardon has been granted;

(3) not have assigned its property or not have been put in receivership under the Bankruptcy Act;

(4) not be subject to a suspension of a certificate;

(5) no longer be in the situation that caused the cancellation of the certificate, if applicable;

(6) pay the dues and contributions provided in Chapters VI.

16. This legal person that solicits a certificate, shall in addition forward to the Council the following documents and information:

(1) its corporate name and the address of its head office as well as that of all its establishments in Québec;

(2) the surname, given name, domicile and profession, if applicable, of its shareholders;

(3) a signed statement by a representative generally or specially authorized for such purpose, attesting that the requirements of section 49 to 57 of the Act are complied with;

(4) the surname, given name and domicile of one of the market intermediaries through whom the firm will carry on its activities;

(5) a signed statement by a representative generally or specially authorized for such purpose, attesting that the legal person is not a multidisciplinary firm within the meaning of section 42 of the Act;

(6) the amount of its share capital, the number of shares composing such share capital and the number of subscribed shares;

(7) a copy of its articles of incorporation and all amendments thereto, if applicable;

(8) the surname and given name of the person who shall ensure liaison with the Association.

17. The Council shall, each time it refuses to issue a certificate, notify the applicant and the Association in writing by specifying the grounds for such refusal.

DIVISION III MENTIONS

18. The certificate issued by the Council shall contain the following mentions:

(1) in the case of a natural person, the surname, given name and commercial name, if applicable, of the holder of the certificate;

(2) the name of the firm;

- (3) the number of the certificate;
- (4) the category of the certificate;
- (5) the mention, if applicable, that the market intermediary in insurance of persons is authorized to use the title of financial planner;
- (6) the date of expiry of the certificate;
- (7) the mention that the certificate is restricted to life insurance or accident or sickness insurance in accordance with the provisions of section 151;
- (8) the signature of the person authorized to issue the certificate or a reproduction, by any means or process, of such signature.
- (9) in the case of a trainee's certificate, the surname and given name of the intermediary referred to in subsection 13 of section 8.

DIVISION IV **PERIOD OF VALIDITY OF THE CERTIFICATE**

19. The period of validity of an individual or firm certificate is 1 year.

This period of validity may, however, vary between 6 months and 18 months in the case of the issuance of a first certificate.

20. In the case of an individual certificate issued to a natural person, the expiry date of the certificate is set on the day preceding the first day of the month corresponding to the first letter of the surname of the holder, namely:

- (1) February 1, if the letter is A or B;
- (2) March 1, if the letter is C or D;
- (3) April 1, if the letter is E, F or G;
- (4) May 1, if the letter is H, I or J;
- (5) June 1, if the letter is K or L;
- (6) August 1, if the letter is M or N;
- (7) September 1, if the letter is O or P;
- (8) October 1, if the letter is Q or R;
- (9) November 1, if the letter is S, T or U;
- (10) December 1, if the letter is V, W, X, Y or Z.

21. The provisions of section 20 apply, adapted as required, to a firm.

DIVISION V **RENEWAL**

22. To obtain the renewal of his individual or firm certificate, a natural person, a partnership or a legal person shall apply therefor in writing to the Council, at least 30 days prior to its expiry, and:

(1) demonstrate that he or it meets the conditions of issuance provided in section 9, subsection 2 for a natural person, section 13 for a partnership, and section 15 for a legal person, that were applicable at the time of the issuance of the certificate that he or it is renewing;

(2) have reimbursed, if applicable, sums disbursed by the Fonds d'indemnisation en assurance de personnes, plus interest and costs;

(3) in the case of a natural person, pay the dues and contributions provided in Chapters VI and IX, and in the case of a

partnership or a legal person, pay the dues provided in Chapter VI.

No application for renewal shall be considered if it is presented after the expiry date of the certificate.

A renewal application received by the Council between the thirtieth day preceding the expiry date and the expiry date of the certificate shall be accepted and processed subject to the payment of a penalty equal to 25 % of the annual contribution.

DIVISION VI **NOTICE OF CHANGE**

23. During the period of validity of a certificate, the certificate holder shall immediately notify the Council thereof in writing if a change occurs in the information and documents referred to:

(1) in subsections 1, 6, 11, 12 and 13 of section 8 and in subsection 4 of section 10 in the case of a natural person;

(2) in subsection 1, regarding its firm name and the address of its principal establishment, 4 and 6 of section 14, in the case of a partnership;

(3) in subsection 1, regarding the corporate name and the head office, 3, 5 and 8 of section 16, in the case of a legal person.

DIVISION VII **SUSPENSION AND CANCELLATION**

24. In the case in which a market intermediary is expelled from the Association, his certificate becomes null. If the market intermediary in insurance of persons is suspended from the Association, his certificate is suspended for the same period and under the same conditions.

This nullity or this suspension takes effect at the same time as the expulsion or suspension from the Association.

25. The certificate of an intermediary is suspended, for the period that the Council deems appropriate when his liability insurance is suspended or cancelled.

The Council may suspend, for the period it deems appropriate, the certificate of a trainee who fails the examination referred to in section 9, subsection 3b or the second sitting of this examination.

26. The Council shall cancel an intermediary's certificate if:

- (1) the holder makes such a request;
- (2) the firm holding the certificate is dissolved;
- (3) the holder of an individual certificate dies;
- (4) the holder of the certificate has assigned his property or has been put in receivership under the provisions of the Bankruptcy Act;
- (5) the holder of the certificate has admitted guilt to or has been found guilty of a criminal act related to the activity of market intermediary;
- (6) the compensation fund guarantees the liability of the holder of the certificate;
- (7) the holder remains without liability insurance coverage at the expiry of the suspension period of his certificate;
- (10) the holder does not pay the dues and contributions he is required to pay within the given deadline.

27. The Council shall publish within 30 days following the effective date of the cancellation or suspension of a certificate, a notice in a newspaper in circulation in the locality in which the

market intermediary in insurance of persons has his principal establishment and in one specialized publication intended for market intermediaries in insurance of persons and insurers.

The Council shall also within the same period forward this notice to the Association.

28. The notice provided in section 29 indicates, for a natural person his surname and given name and his commercial name, if applicable, and for a partnership its firm name and the surnames and given names of its partners, and for a legal person its corporate name. It also indicates the address at which the certificate holder mainly carries on his activities as well as the effective date and the cause of suspension or cancellation.

CHAPTER II TITLE

29. When the holder of a certificate of market intermediary in insurance of persons presents himself as an agent or broker, he shall use the title mentioned on his certificate in the following manner:

- (1) agent in insurance of persons;
- (2) broker in insurance of persons.

30. A market intermediary in insurance of persons may add to his title of insurance agent or broker in insurance of persons, as the case may be, an indication of the sector(s) in which he is active. The market intermediary may also mention his academic training and, if applicable, state his membership in a professional corporation.

31. The holder of a market intermediary certificate in insurance of persons may add to his title of insurance agent or broker in insurance of persons, as the case may be, the titles of "registered life underwriter" (R.L.U.) or "chartered life underwriter" (C.L.U.) in accordance with an authorization from the Association.

32. Only the holder of a certificate who applies therefor to the Council and has forwarded thereto the diploma awarded by the Québec Institute of financial planning recognized by the Minister under section 30 of the Act may use the title of financial planner.

33. A market intermediary in insurance of persons shall only use the title of financial planner along with the title of insurance agent of persons or broker in insurance of persons, as the case may be.

34. The market intermediary in insurance of persons whose certificate is suspended or cancelled shall cease from using the titles relating to his position.

CHAPTER III OCCUPATIONS

35. An intermediary shall not have occupations other than that of market intermediary within the meaning defined in section 1 of the Act.

36. An intermediary who transfers to an administrative position within an insurance firm or company may keep his certificate insofar as his activities remain related to the sale of insurance or savings products and he continues to work with other intermediaries.

CHAPTER IV REMUNERATION AND SHARED COMMISSIONS

37. A market intermediary in insurance of persons shall, at the time of the insurance proposal, inform the person with whom he is transacting, of his means of remuneration and, if applicable, of the sharing of the commission to which he is entitled for the services that he is providing as well as the identity of the other intermediary.

CHAPTER V PROFESSIONAL LIABILITY INSURANCE

38. A natural person who holds a certificate shall take out an insurance policy covering the financial consequences of the liability that he may incur due to errors or omissions committed in the carrying on of his activities as a market intermediary in insurance of persons.

39. The coverage of this policy shall not be less than 500 000 \$ per loss.

40. The deductible shall not be higher than 1 000 \$.

41. The coverage of this policy shall extend to the employees, representatives and trainees, if applicable, of the market intermediary in insurance of persons.

42. The policy shall contain an obligation for the insurer to notify the Council in writing of any early termination of contract. It shall also provide that such a termination shall only take effect 60 days after the Council has been notified.

43. The policy shall provide for the insurer the obligation to notify the Council of the payment of any compensation that it is required to pay to the victim of an error or omission committed by the market intermediary in insurance of persons.

CHAPTER VI DUES AND CONTRIBUTIONS

DIVISION I EXIGIBLE DUES

44. Annual exigible dues for carrying on the activity of a market intermediary in insurance of persons are:

- (1) 50 \$ for a natural person who holds a certificate;
- (2) 100 \$ for a firm that holds a certificate.

45. In the event that the certificate is issued for a period greater or lesser than 12 months, exigible dues are set proportionately.

46. For each of the examinations required for obtaining the certificate of market intermediary in insurance of persons, exigible dues are 40 \$.

For any second sitting for an examination, exigible dues are the same as those provided in the above paragraph.

47. Exigible dues are payable in one lump sum at the time of the issuance or renewal of the certificate, by cheque payable to the Council or in cash.

DIVISION II CONTRIBUTION OF FINANCIAL INSTITUTIONS

48. The annual exigible contribution of financial institutions using the services of market intermediaries in insurance of persons are:

- (1) 1 000 \$ plus;

(2) 0.10 \$ for each 1 000 \$ of subscribed premiums and contributions received by the financial institution according to the last Annual Report on insurance from the Inspector General of Financial Institutions.

49. The Council shall forward to financial institutions, during the month of January of each year, a notice of contribution prepared in conformity with section 48.

The financial institution shall pay, to the Council, its exigible contribution within 30 days of the forwarding of the notice of contribution.

CHAPTER VII TRUST ACCOUNT

50. A market intermediary in insurance of persons shall establish in his name and keep in Québec a trust account for his activities as market intermediary in insurance of persons in a bank governed by the Bank Act (R.S.Q., c. B-1) or in a financial institution registered with the Régie de l'assurance-dépôts du Québec.

51. When a market intermediary in insurance of persons offers both insurance products and products relating to savings, he shall establish and maintain a trust account for each of these activities.

52. A trust account shall not serve for activities other than those of a market intermediary in insurance of persons.

53. A market intermediary in insurance of persons shall only make a withdrawal from a trust account by means of cheque.

54. A market intermediary in insurance of persons shall maintain accounting separate and distinct from his general accounting for each of the trust accounts opened in his name.

55. Except if it is required by a person or organization having the power to demand disclosure, information relating to a trust account of a market intermediary in insurance of persons shall remain confidential.

CHAPTER VIII REGISTERS AND RECORDS

56. A market intermediary in insurance of persons shall keep the following registers:

- (1) A record for each of his clients;
- (2) An accounting register allowing the monitoring of financial operations related to his activities as a market intermediary in insurance of persons;
- (3) a register of shared commissions;
- (4) a register relating to each trust account.

A market intermediary in insurance of persons may, for the keeping of such registers, use a computer or any other technique.

DIVISION II CLIENT RECORDS

57. A client record shall contain the following information:

- (1) the surname and given name of the client, his commercial name, firm name or corporate name;
- (2) the client's date of birth, if necessary;
- (3) the nature of the product sold to the client including the policy number, the amount in principal, the dates of issue of the contract and the signing of the proposal;

(4) the amount of remuneration paid to the market intermediary in insurance of persons for each of the products sold to the client;

(5) the mode of payment of the premium and the payment date of the first premium.

58. A market intermediary in insurance of persons shall allow his client to become informed of and obtain a copy of the information contained in his record. Expenses for the copy remain, however, to be paid by the client.

59. A market intermediary in insurance of persons shall keep the client's record for at least 5 years beginning at the expiry date of the last contract.

60. If a market intermediary in insurance of persons carries on his activities within a firm, the client records may be kept by the firm and come under its responsibility.

If a market intermediary in insurance of persons carries on his activities for an insurer, the client records may be kept by the insurer and, in such a case, come under its responsibility.

DIVISION III ACCOUNTING REGISTER

61. If a market intermediary in insurance of persons carries on his activities within a firm, the accounting register may be kept by the firm and, in such a case, comes under its responsibility.

DIVISION IV REGISTER OF SHARED COMMISSIONS

62. The register of shared commissions shall contain, regarding any sharing of a commission, the following information:

- (1) the identification of the product generating the commission;
- (2) the amount of the commission;
- (3) the distribution of the commission;
- (4) the identity and the certificate number of the market intermediary in insurance of persons with whom the sharing was performed.

DIVISION V REGISTER RELATING TO EACH TRUST ACCOUNT

63. The register relating to each trust account shall contain the following information:

- (1) the surname and given name of the client, his commercial name, firm name or corporate name;
- (2) the number of the insurance contract for which the market intermediary in insurance of persons has received an amount;
- (3) the amount and object of the transaction;
- (4) in the case of a trust account kept by a firm, the name of the market intermediary in insurance of persons involved in the transaction.

64. The register relating to each trust account shall be kept for at least 10 years after the last entry.

DIVISION VI AN INTERMEDIARY WHO CEASES ACTIVITIES

65. The registers and records of a market intermediary in insurance of persons who ceases to be the holder of a certificate or who ceases to carry on activities as such, shall be remitted to a transferee.

The transferee shall be a market intermediary in insurance of persons or an insurer.

66. Section 65 applies, adapted as required, to the assigns of a deceased market intermediary in insurance of persons.

67. A person referred to in this division shall, within 15 days of a situation provided in sections 65 and 66:

(1) if he has found a transferee, notify the Council thereof by indicating the transferee's name and address;

(2) if he has not found a transferee, notify the Council thereof and remit to the Council the custody of the registers and records.

68. The transferee or the Council, as the case may be, shall within 30 days following the date on which he or it takes possession of the registers and records, notify in writing the clients affected by such transfer.

CHAPTER IX FONDS D'INDENNISATION EN ASSURANCE DE PERSONNES

DIVISION I GENERAL PROVISION

69. Starting on the third year following the effective date of this regulation, the fonds d'indemnisation en assurance de personnes shall be maintained at a minimum amount of 250 000 \$.

DIVISION II CONTRIBUTIONS

70. A natural person who holds a certificate shall contribute to the fund.

71. The amount of the contribution is set at 10 \$. In the case of a natural person who uses the title of financial planner, the annual contribution is 20 \$.

72. The annual contribution shall be paid, at the same time as exigible fees, when applying for the issuance or renewal of a certificate.

DIVISION III CLAIMS LAID AGAINST THE FUND

73. A claim presented to the fund shall:

- (1) be done in writing;
- (2) present the facts upon which it is based;
- (3) indicate the amount being claimed;
- (4) be sworn and filed with the secretary of the board of directors.

74. To be admissible, a claim shall be accompanied by a final decision from the discipline committee of the Association. However, this decision of the discipline committee does not bind the fund.

75. A claim is not admissible when filed by:

- (1) an insurer;
- (2) a financial institution;
- (3) a market intermediary when he lays claim in such capacity.

Nonetheless, the first paragraph does not prevent an insurer from presenting a claim to the fund when it is subrogated in the rights of a person who could have presented it to the fund for compensation.

76. A claim shall be filed within 12 months of the decision referred to in section 74.

77. The board of directors of the fund may extend the deadline provided in section 76 if the applicant shows that it was indeed impossible for him to act within the given deadline.

DIVISION IV COMPENSATION

78. The board of directors of the fund reviews and rules on the claims presented before it.

79. Upon the request of the board of directors, the claimant or the market intermediary in insurance of persons affected thereby, shall:

- (1) file all details and documents relating to the claim;
- (2) produce any relevant evidence.

80. The board of directors decides on the admissibility of a claim and sets the amount of the compensation. Its decision is final.

81. Compensation paid by the fund is limited to the following amounts:

- (1) 60 000 \$ per claim;
- (2) 120 000 \$ per market intermediary in insurance of persons per year.

Nonetheless, the board of directors may pay a compensation higher than the amounts provided in the first paragraph in exceptional circumstances based on humanitarian considerations.

82. In the event of insufficiency of the fund, claims are paid on a prorated basis.

83. The board of directors of the fund is authorized to make a contract of insurance for the benefit of the fund and to pay the premiums thereof from the fund.

CHAPTER X INSURANCE CONTRACT SUBSCRIPTION AND REPLACEMENT

84. Prior to having an insurance proposal completed, the market intermediary in insurance of persons shall collect information from the policyholder or the insured as to his insurance needs, policies he already holds, their characteristics, the identity of the insurers that issued them and, if applicable, any other useful piece of information such as the number of dependents, personal and family obligations of the policyholder or the insured, the value of the business or enterprise in question.

85. A market intermediary in insurance of persons shall favour the keeping in force of any insurance contract unless its replacement is justified in the client's interest. Such justification is the responsibility of the market intermediary in insurance of persons who proceeds with the replacement.

86. A market intermediary in insurance of persons shall not incite an insured or a policyholder, if the latter is not the insured, to cancel an insurance contract, to let it expire or to abandon it in favour of another insurance contract if this is not in conformity with the procedure provided in sections 87 to 89.

DIVISION II PROCEDURE TO BE FOLLOWED

87. In group insurance, a market intermediary in insurance of persons shall protect the interests of the policyholder and the

participants when he presents a replacement project of the group insurance policy.

88. In any other insurance contract, a market intermediary in insurance of persons shall:

(1) proceed with a complete analysis of the insured's or policyholder's needs in conformity with section 84;

(2) complete, at the same time as the insurance proposal, the form provided in Schedule I or II if it is to the advantage of the insured or policyholder to replace his contract by another;

(3) remit the completed form to the insured or to the policyholder and explain to him by making a comparison of the characteristics of the contracts in force as contrasted with those being proposed as well as the description of the advantages and disadvantages of the substitution;

(4) forward the completed form by registered or certified mail to the head office of the insurer(s) whose contract(s) is/are subject to be replaced within 5 days of the signing of the proposal;

(5) transmit a copy of the completed form, within the period provided in subsection 4 to the insurer with whom the market intermediary in insurance of persons proposes to place the new contract.

89. A market intermediary in insurance of persons shall respect the possibility for the insurer whose contract is subject to being replaced to make contact with the insured or the policyholder in order to attempt to persuade him not to replace his contract or to offer him an equivalent contract.

DIVISION III

EXTENSION OF THE REPLACEMENT PROCEDURE

90. A modification made to the existing contract is not considered as a replacement under this chapter.

91. An insurance contract in force includes:

(1) a signed insurance proposal provided that:

(a) the premium be paid in whole or in part in cash or by cheque;

(b) the signatory of the proposal has given a bank authorization or a written preauthorized salary debit; or,

(c) the signatory of the proposal has authorized in writing the transfer of funds from one policy to another by the same insurer;

(2) an annuity contract with a periodical premium when the proposal is signed and:

(a) the complete payment of the premium is made;

(b) the signatory of the proposal has authorized the transfer of funds from one contract to another;

(3) a life insurance proposal with term insurance not exceeding one year when the proposal has been signed and the temporary premium has been paid.

92. The proposal within the meaning of section 91 ceases to be considered as a contract in force:

(1) when the premium has only been partially paid without having the balance paid within the following 90 days;

(2) when the premium has been totally paid without having the required medical examination taken within the following 90 days;

(3) when it has generated the issuance of a life insurance contract that differs from the proposal if the signatory of the proposal refuses the policy.

93. When an insurer is ready to issue a contract in conformity with the conditions required in the proposal, but for a higher premium, the procedure provided in the event of a replacement shall be followed prior to being able to obtain the same contract from another insurer, without an extra or supplementary premium.

CHAPTER XI

ADVERTISING AND REPRESENTATIONS

94. Advertising made by a market intermediary in insurance of persons shall only include the following items:

(1) his surname, given name and commercial name, if applicable, and those of his partners, and the name of the firm;

(2) his business and personal addresses and his telephone numbers;

(3) the title(s) that he is authorized to use;

(4) his academic training and the diplomas that he holds;

(5) the sector(s) of activities in which he carries on his activities and the description of products and services that he offers;

(6) the name of the insurer or organization for whom he works.

95. The advertising of an insurance product is only authorized if it has received prior approval from the insurer in question.

96. The advertising of an insurance product shall give account of all its characteristics without emphasizing some of them to the detriment of others.

97. Unless relating to savings, different products shall not be compared in an advertisement.

98. An advertisement shall not be false or erroneous, nor of such nature as to mislead the public, namely regarding the capacities of the market intermediary in insurance of persons.

CHAPTER XII

DISCIPLINE

DIVISION I

DUTIES AND OBLIGATIONS REGARDING THE PUBLIC

99. A market intermediary in insurance of persons shall favour the improvement of the quality and availability of services that he offers to the public.

100. A market intermediary in insurance of persons shall further education and information measures in the field in which he carries on his activities.

101. The conduct of a market intermediary in insurance of persons shall be characterized by dignity, moderation, and objectivity.

102. A market intermediary in insurance of persons shall refrain from carrying on activities in conditions or circumstances likely to compromise the quality of his services. Namely, he shall not carry on his activities when he is under the influence of alcoholic beverages, narcotics or other substances that may weaken or impair his faculties.

DIVISION II

DUTIES AND OBLIGATIONS REGARDING THE CLIENT

Level of competence

103. In carrying on his activities, a market intermediary in insurance of persons shall take into account the limits of his knowledge as well as the means at his disposal.

104. A market intermediary in insurance of persons shall avoid any misrepresentation regarding his level of competence or the efficacy of his services.

Integrity and objectivity

105. A market intermediary in insurance of persons shall perform his professional obligations with integrity.

106. A market intermediary in insurance of persons shall act towards his client or potential client with probity and by conscientiously providing him with any information that might be necessary or useful.

107. A market intermediary in insurance of persons shall present to his client or any potential client, completely and objectively, the nature, advantages and disadvantages of the product or service that he is proposing to the client and refrain from providing advice that could be inexact or incomplete.

108. A market intermediary in insurance of persons shall provide his client or any potential client with explanations needed in order to understand and appreciate the product or services that he is proposing to or rendering the client.

109. Prior to giving advice or making a recommendation, a market intermediary in insurance of persons shall seek to have complete knowledge of the facts.

110. A market intermediary in insurance of persons shall not make inexact or incomplete statements, nor use his contacts to incite a person take out insurance through one market intermediary rather than another.

111. A market intermediary in insurance of persons shall not appropriate for personal purposes any sums placed with him in trust or valuables belonging to his clients over which he has custody.

Independence

112. A market intermediary in insurance of persons shall, in the carrying on of his activities, preserve his independence at all times and avoid any situation in which he would be in a conflict of interests.

113. A market intermediary in insurance of persons shall subordinate his personal interest to that of his client or any potential client.

114. A market intermediary in insurance of persons shall demonstrate objectivity and impartiality whenever his client or any potential client requests information from him.

115. A market intermediary in insurance of persons shall ignore any intervention on the part of a third party likely to influence the performance of duties relating to the carrying on of his activities to the detriment of his client or any potential client.

Responsibility and availability

116. A market intermediary in insurance of persons who writes a risk shall serve his client with availability and diligence.

117. A market intermediary in insurance of persons shall give account to his client or to any potential client of any mandate entrusted to him and carry such mandate out with diligence.

118. A market intermediary in insurance of persons shall refrain in carrying on his activities from avoiding or attempting to avoid his professional liability.

Professional secrecy

119. A market intermediary in insurance of persons shall respect professional secrecy.

120. A market intermediary in insurance of persons shall not disclose information of a personal or confidential nature that he has obtained other than in conformity with the provisions of section 25 of the Act, nor use such information to the detriment of his client or for purposes of obtaining an advantage for himself or someone else.

121. A market intermediary in insurance of persons shall ensure that his employees comply with the provisions of section 120.

Client rights

122. A market intermediary in insurance of persons shall at all times recognize the possibility that his client and any potential client may consult another market intermediary or any other competent person.

123. A market intermediary in insurance of persons shall recognize the possibility that his client may inform himself of documents pertaining to him and of the record pertaining to him and, upon request, shall turn over to him a copy of such instruments.

DIVISION III

DUTIES AND OBLIGATIONS REGARDING OTHER INTERMEDIARIES

124. A market intermediary in insurance of persons shall not, directly or indirectly, make comments, in any form whatsoever, that may be false or inexact regarding another market intermediary.

125. A market intermediary in insurance of persons shall use loyal solicitation and competition methods.

126. A market intermediary in insurance of persons shall not discredit another market intermediary.

DIVISION IV

DUTIES AND OBLIGATIONS REGARDING INSURERS

127. A market intermediary in insurance of persons shall not fail to pay an insurer, on demand or at a set time, the premiums that he has collected on behalf of the insurer.

128. A market intermediary in insurance of persons shall give insurers the information which they are entitled to expect.

DIVISION V

DUTIES AND OBLIGATIONS TOWARDS THE PROFESSION

129. A market intermediary in insurance of persons shall refrain from suggesting or leading the public to lose confidence in another market intermediary, an insurer or in one of their products.

130. A market intermediary in insurance of persons shall not:

- (1) carry on his activities dishonestly or neglectfully;
- (2) be found guilty of a criminal act related to the activity of a market intermediary;
- (3) contravene An Act respecting market intermediaries or this Regulation.

131. A market intermediary in insurance of persons shall not, directly or indirectly, grant a rebate on the premium contained in an insurance contract, nor agree to a mode of payment of the premium different from the one provided in the contract.

132. A market intermediary in insurance of persons shall not render the making of a contract conditional to the making of another contract.

133. A market intermediary in insurance of persons shall not remunerate, directly or indirectly, a person who is not the holder of a certificate for carrying on the activity of a market intermediary.

134. A market intermediary in insurance of persons shall not accept any consideration from a person who, without being the holder of a certificate, acts or attempts to act as a market intermediary through a market intermediary who holds a certificate.

135. Subject to the provisions of the Act and its regulations, a market intermediary in insurance of persons shall not receive nor agree to receive any remuneration from any person other than the one who retained his services.

136. A market intermediary in insurance of persons shall not share any commission other than within the limits allowed under the Act and its regulations.

137. A market intermediary in insurance of persons shall not promise or pay any bonus, in any form whatsoever, so that his services may be retained.

138. A market intermediary in insurance of persons shall respond forthwith to any correspondence from investigators or the supervision committee of the Association acting in their capacity.

139. A market intermediary in insurance of persons shall namely present himself before the supervision committee of the Association whenever it is required of him.

140. A market intermediary in insurance of persons shall not hinder the work of officers or investigators of the Association or of one of its committees.

141. After having received the serving of a complaint from the discipline committee of the Association, a market intermediary in insurance of persons shall not contact the complainant without prior written permission from the discipline committee.

142. A market intermediary in insurance of persons shall not participate or contribute in any manner whatsoever to the illegal carrying on of the activity of a market intermediary.

DIVISION VII ADVERTISING

143. A market intermediary in insurance of persons shall present himself as such before the public and shall not hide or misrepresent his status.

144. A market intermediary in insurance of persons shall not use other titles than the ones that the Act and regulations authorize him to use.

145. A market intermediary in insurance of persons shall not personally nor permit a third party to advertise either his volume of production, his membership in a club or other organization in which one must necessarily justify a given volume of production, except for his membership in the "Million Dollar Round Table" (MDRT).

Despite the above paragraph, such advertisement is permitted in insurers' publications or in reviews of the Association or the Council.

CHAPTER XIII

PROVISION APPLICABLE TO FIRMS

146. Provisions of this Regulation apply, unless the context indicates another meaning, to a firm.

CHAPTER XIV

FINAL PROVISIONS

147. Any non-compliance with the Act or a regulation that is not already sanctioned by the suspension or cancellation of the certificate may constitute the grounds for a complaint to the discipline committee of the Association and make the offender liable to penalties provided in section 159 of the Act in such a case.

CHAPTER XV

ACQUIRED RIGHTS

148. Any person who was, between October 1, 1986 and the effective date of this Regulation, a member of the Association provinciale des assureurs-vie du Québec or the Association des intermédiaires en assurance de personnes du Québec, or the holder of an insurance agent's certificate issued by the Inspector General of Financial Institutions, is entitled to the issuance of a certificate by the Council upon the payment of dues and contributions provided in chapters VI and IX.

149. This person shall provide, insofar as these provisions are applicable, the information required under chapter I regarding the issuance of a certificate.

150. This person shall also specify the category or categories of certificate that he held either in:

- (1) life insurance;
- (2) accident and sickness insurance;
- (3) life and accident or sickness insurance.

151. The Council issues, for the benefit of the person who held an insurance agent certificate, one or the other of the following certificates:

- (1) a market intermediary certificate in insurance of persons for the person who held a certificate in the category life and accident or sickness insurance;
- (2) a market intermediary certificate in insurance of persons restricted to life insurance for the person who held a certificate in the category life insurance;
- (3) a market intermediary certificate in insurance of persons restricted to accident and sickness insurance for the person who held a certificate in the category accident and sickness insurance.

152. This Regulation shall come into force on the fifteenth day following its publication in the *Gazette officielle du Québec* or on the effective date of sections 5, 7 and 13 of the first sentence of the first paragraph of section 29 and of section 42 of An Act respecting market intermediaries (1989, c. 48), if this date is later than such fifteenth day.

NOTICE FOR REPLACING INSURANCE CONTRACTS OF PERSONS (DISABILITY-EARNING)
(write in capital letters)

Name of policyholder : _____

Address : _____

Insured's date of birth : _____

D H Y

Phone : _____

	REPLACED CONTRACT(S)	PROPOSED CONTRACT
Company		
Policy number		
Elimination period		
Period of indemnity		
Amount of benefits	\$	\$
Amount of premium	\$	\$

REASONS FOR REPLACEMENT

1. In what way are the contracts being replaced inadequate regarding the needs of the policyholder?

2. How does the proposed contract better suit the needs of the policyholder?

3. Does the replacement have any disadvantages for the policyholder and if so, list them.

IMPORTANT NOTICE FOR THE POLICYHOLDER

Before signing this form, it is most important to take note of the information on the reverse side of the copy for the policyholder.

SIGNATURES

I acknowledge having received a copy of this notice duly filled out and I acknowledge that a copy of this notice will be sent to the designated companies.

(Date)

(Name of market intermediary in capital letters)

(Signature of the policyholder)

(Signature of the market intermediary)

(Telephone)

1. White
Policyholder's copy

2. Yellow
Present insurer's copy

3. Pink
New insurer's copy

4. Gold
Intermediary's copy

IMPORTANT NOTICE FOR THE POLICYHOLDER

1. The purpose of this notice is to inform and protect you while you are considering the modification of your disability insurance portfolio. The change you are considering could involve the taking out of a new disability insurance policy or that the one you presently have, could be cancelled.
2. The contract to be replaced, **should not be cancelled** before the proposed contract is issued and in force in conformity with what has been requested.
3. Here are a few reasons that may influence your decision to replace your present insurance contract:
 - (a) The clause providing for the incontestability of a policy after two years is generally not transferred from one policy to another. The validity of the new policy could therefore be questioned when the former contract was perhaps incontestable.
 - (b) If your insurability has changed, a new policy may cost more and include restrictions. **You should not change or cancel your insurance contract without precisely checking your insurability.**
 - (c) The new contract might not cover certain health problems that you have contracted prior to its issuance and which might be covered by the contract being replaced.

Please take these factors into account when examining the notice for replacement.

PROCEDURES FOR THE INTERMEDIARY

This document contains the information required by the Conseil des Assurances de Personnes (C.A.P.) when replacing a disability insurance contract. Hence, it must be used **in all cases of replacement.**

1. Once the form is duly completed with a ballpoint pen only and signed by the insured, you must forward, **by registered or certified mail within five (5) days of the signing of the proposal:**
 - (a) the yellow copy to the head office of the insurer having issued the contract to be replaced;
 - (b) the pink copy to the head office of the insurer issuing the new contract.
2. The white copy must be given to the policyholder and you must keep the gold copy for your records.

COMPARATIVE CHART
(write in capital letters)

Data sheet prepared for : _____ by : _____
insured intermediary

Date : _____

	REPLACED CONTRACT(S)		PROPOSED CONTRACT	
COMPANY				
Policy number				
CHARACTERISTICS OF THE CONTRACTS				
Amount of benefit	\$		\$	
Compensation period				
In case of accident				
In case of sickness				
Elimination period				
Rehabilitation coverage	☐ Yes ☐ No		☐ Yes ☐ No	
Occupation covered	☐ Yes ☐ No		☐ Yes ☐ No	
Period of occupation coverage				
Renewal	☐ Guarent. ☐ Not guarant.		☐ Guarent. ☐ Not guarant.	
Rescindable	☐ Yes ☐ No		☐ Yes ☐ No	
Exclusion of pre-existing sickness	☐ Yes ☐ No		☐ Yes ☐ No	
PREMIUMS	☐ Variable ☐ Level ☐ Guarent. ☐ Not guarant.		☐ Variable ☐ Level ☐ Guarent. ☐ Not guarant.	
At present	\$		\$	
In 5 years	\$		\$	
In 10 years	\$		\$	
Waiver of premiums	☐ Yes ☐ No		☐ Yes ☐ No	
EXCLUSION RIDERS	☐ Yes ☐ No If yes, list them in the		☐ Yes ☐ No comments section below	
INTEGRATION OF BENEFIT PROVISION				
with government plan	☐ Yes ☐ No		☐ Yes ☐ No	
with other contracts	☐ Yes ☐ No		☐ Yes ☐ No	
ADJUSTMENT OF BENEFITS				
Rate	min. max. lev.		min. max. lev.	
PARTIAL DISABILITY	☐ Yes ☐ No		☐ Yes ☐ No	
Maximum period of compensation				
PARTIAL LOSS OF EARNINGS	☐ Yes ☐ No		☐ Yes ☐ No	
Maximum period of compensation				
INCREASE OF BENEFIT				
Option to increase benefit without evidence of insurability	☐ Yes ☐ No		☐ Yes ☐ No	
Amount				
Date of options				
Possibility to exercise options during disability	☐ Yes ☐ No		☐ Yes ☐ No	
ACCIDENTAL DEATH AND DISMEMBERMENT	☐ Yes ☐ No		☐ Yes ☐ No	
Amount				

COMMENTS : Write in this section any other item comparing or contrasting the replaced contract(s) with the proposed contract.

NOTICE FOR REPLACING INSURANCE CONTRACTS OF PERSONS (LIFE)
(write in capital letters)

Name of policyholder : _____ Insured (if not the policyholder) : _____
 Address : _____ Insured's date of birth : _____
 Phone : _____ D M Y

	REPLACED CONTRACTS				PROPOSED CONTRACT	
	A		B			
Company						
Policy number						
Type of contract	☐ Perm.	☐ Term.	☐ Univ.	☐ Perm.	☐ Term.	☐ Univ.
Amount of coverage	\$		\$		\$	
Present premium	\$		\$		\$	
Guaranteed premium	☐ Yes	☐ No	☐ Yes	☐ No	☐ Yes	☐ No

REASONS FOR REPLACEMENT

1. In what way are the contracts being replaced inadequate regarding the needs of the policyholder?

2. How does the proposed contract better suit the needs of the policyholder?

3. Does the replacement have any disadvantages for the policyholder and if so, list them.

IMPORTANT NOTICE FOR THE POLICYHOLDER

Before signing this form, it is most important to take note of the information on the reverse side of the copy for the policyholder.

SIGNATURES

I acknowledge having received a copy of this notice duly filled out and I acknowledge that a copy of this notice will be sent to the designated companies.

(Date) (Name of market intermediary in capital letters)

(Signature of the policyholder) (Signature of the market intermediary)

(Telephone)

1. White
Policyholder's copy

2. Yellow
Present insurer's copy

3. Pink
New insurer's copy

4. Gold
Intermediary's copy

IMPORTANT NOTICE FOR THE POLICYHOLDER

1. The purpose of this notice is to inform and protect you while you are considering the modification of your life insurance portfolio. The change you are considering could involve the taking out of a new life insurance policy or that the one(s) you presently have, could be cancelled.
 2. The contract to be replaced, **should not be cancelled** before the proposed contract is issued and in force in conformity with what has been requested.
 3. In making your decision, you may wish to consider the opportunity of abandoning your policy or choosing reduced paid-up insurance or even to exercise the extension right in favour of a new life insurance policy taken out from the same company or another company. Here are a few reasons that may influence your decision to replace your present insurance contract:
 - (a) Since the cost of underwriting life insurance policies is **debited during the first years of the insurance**, the replacement of a former policy by a new one can cause you to pay **this cost two times**.
 - (b) The amount of the premium for a policy in force may be lower than the one in a new policy offering advantages similar or identical to the former one. Any replacement of a policy in the same category **ordinarily includes a higher premium, depending on the age of the insured**.
 - (c) **Clauses relating to suicide and incontestability** of a life insurance policy generally are not transferred from one policy to another. Possible result: an application for settlement that could have been acceptable under the replaced policy may be refused under the new policy.
 - (d) If your insurability has changed, a new policy may cost more and include restrictions. **You should not change or cancel your insurance contract without precisely checking your insurability**.
 - (e) It is possible that the interest rate for a loan on your present policy may be more favourable, as are the other conditions and coverages offered.
 - (f) By replacing or changing a life insurance contract **acquired prior to December 2, 1982**, you may lose valuable tax advantages linked to the policy presently in force.
- (b) the pink copy to the head office of the insurer issuing the new contract.
2. The white copy must be given to the policyholder and you must keep the gold copy for your records.

Please take these factors into account when examining the notice for replacement.

PROCEDURES FOR THE INTERMEDIARY

This document contains the information required by the Conseil des Assurances de Personnes (C.A.P.) when replacing an insurance contract of persons, with the exception of a disability insurance policy, a category for which another form is provided. Hence, it must be used **in all cases of replacement**.

1. Once the form is duly completed with a ballpoint pen only and signed by the policyholder, you must forward, **by registered or certified mail within five (5) days of the signing of the proposal**:
 - (a) the yellow copy to the head office of the insurer having issued the contract to be replaced;

COMPARATIVE CHART

(write in capital letters)

Name of policyholder : _____

Name of intermediary : _____

Date of needs analysis : _____

D M Y

Need
for life ins. : _____Amount
of life ins. kept : _____Amount
of group ins. : _____

	REPLACED CONTRACT(S)		PROPOSED CONTRACT
	A	B	
Company			
Policy number			
Date of issue			
Expiry of suicide clause : incontestability :			
Beneficiary			
Category	☐ Smoker ☐ Non-s.	☐ Smoker ☐ Non-s.	☐ Smoker ☐ Non-s.
Renewable up to :			
Convertible up to :			
Policy exempt from accrued earnings tax	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
CHARACTERISTICS OF THE CONTRACTS			
Basic insured amount	☐ Incr. ☐ Lev. ☐ Decr. ☐ Guarant. ☐ Not guarant.	☐ Incr. ☐ Lev. ☐ Decr. ☐ Guarant. ☐ Not guarant.	☐ Incr. ☐ Lev. ☐ Decr. ☐ Guarant. ☐ Not guarant.
At present			
In 10 years			
In 20 years			
At age 65			
Term rider :	☐ Incr. ☐ Lev. ☐ Decr.	☐ Incr. ☐ Lev. ☐ Decr.	☐ Incr. ☐ Lev. ☐ Decr.
At present			
In 10 years			
In 20 years			
At age 65			
TOTAL AMOUNT			
Other guarantees			
Waiver of premium			
Acc. death & dismemberment			
Guaranteed insurability			
Disability benefits			
Others			
COMMENTS :			

PARTICIPATIONS	REPLACED CONTRACT(S)				PROPOSED CONTRACT	
	A		B		WITH	WITHOUT
	WITH	WITHOUT	WITH	WITHOUT	WITH	WITHOUT
Accumulation	☐ cash ☐ add. ins.	☐ cash ☐ add. ins.	☐ cash ☐ add. ins.	☐ cash ☐ add. ins.	☐ cash ☐ add. ins.	☐ cash ☐ add. ins.
	☐ Premium red. ☐ Capitalized	☐ Premium red. ☐ Capitalized	☐ Premium red. ☐ Capitalized	☐ Premium red. ☐ Capitalized	☐ Premium red. ☐ Capitalized	☐ Premium red. ☐ Capitalized
Value at last annual payment						
Date of last payment						
Date of first planned payment						
SAVINGS Type :	☐ Guarant. ☐ Not guarant.	☐ Guarant. ☐ Not guarant.	☐ Guarant. ☐ Not guarant.	☐ Guarant. ☐ Not guarant.	☐ Guarant. ☐ Not guarant.	☐ Guarant. ☐ Not guarant.
Characteristics :	Duration _____ Rate _____	Duration _____ Rate _____	Duration _____ Rate _____	Duration _____ Rate _____	Duration _____ Rate _____	Duration _____ Rate _____
Contracts	☐ Reg. ☐ Not reg.	☐ Reg. ☐ Not reg.	☐ Reg. ☐ Not reg.	☐ Reg. ☐ Not reg.	☐ Reg. ☐ Not reg.	☐ Reg. ☐ Not reg.
GUARANTEED VALUES	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Payable at death	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
% of interest in force						
VALUES	Cash	Paid-up	Cash	Paid-up	Cash	Paid-up
At present						
In 10 years						
In 20 years						
At age 65						
FORECAST VALUES						
% of projected interest						
% of interest in force						
At present						
In 10 years						
In 20 years						
At age 65						
LOAN	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Amount of loan						
% of applicable interest						

	REPLACED CONTRACT(S)		PROPOSED CONTRACT
	A	B	
PREMIUMS Basic Insurance Premium	☐ Incr. ☐ Lev. ☐ Not guarant.	☐ Incr. ☐ Lev. ☐ Non guarant.	☐ Incr. ☐ Lev. ☐ Non guarant.
Mode of payment	☐ A ☐ S.-a. ☐ Q ☐ H ☐ S.p.	☐ A ☐ S.-a. ☐ Q ☐ H ☐ S.p.	☐ A ☐ S.-a. ☐ Q ☐ H ☐ S.p.
Present premium			
In 1 year			
In 5 years			
In 10 years			
In 15 years			
In 20 years			
At age 65			
Extra premium	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Term riders Premium	☐ Incr. ☐ Lev. ☐ Not guarant.	☐ Incr. ☐ Lev. ☐ Not guarant.	☐ Incr. ☐ Lev. ☐ Not guarant.
Mode of payment	☐ A ☐ S.-a. ☐ Q ☐ H ☐ S.p.	☐ A ☐ S.-a. ☐ Q ☐ H ☐ S.p.	☐ A ☐ S.-a. ☐ Q ☐ H ☐ S.p.
Present premium			
In 1 year			
In 5 years			
In 10 years			
In 15 years			
In 20 years			
At age 65			
Extra premium	☐ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
TOTAL PREMIUMS			

COMMENTS : Write in this section any other item comparing or contrasting the replaced contract(s) with the proposed contract.

Draft Regulation

Professional Code

(R.S.Q., c. C-26)

Pharmacy Act

(R.S.Q., c. P-10, s. 10)

Pharmacists**— Professional training****— Amendment**

Notice is hereby given, in accordance with sections 10, 11 and 13 of the Regulations Act (R.S.Q., c. R-18.1), that the "Regulation respecting professional training of the Ordre des pharmaciens du Québec (Amendment)", made by the Bureau of the Ordre des pharmaciens du Québec, the text of which appears below, may be submitted for approval by the Government upon the expiry of 15 days following this publication.

Under section 12 of the Regulations Act, the proposed regulation may be approved before the expiry of the 45 days prescribed by section 11 of the Act by reason of the urgency owing to the following circumstances:

it is necessary to bring the Draft Regulation into force as soon as possible, since the Regulation currently in force ceases to have effect on 1 January 1991.

Any person having comments to make is asked to transmit them, before the expiry of the 15 day period, to the Chairman of the Office des professions du Québec, complexe de la place Jacques-Cartier, 320, rue Saint-Joseph Est, 1^{er} étage, Québec (Québec), G1K 8G5. These comments will be forwarded by the Office to the Minister responsible for the administration of legislation concerning the professions; they may also be forwarded to the professional Corporation that made the Regulation as well as to the persons, departments and agencies concerned.

THOMAS J. MULCAIR,
Chairman of the Office
des professions du Québec

Regulation respecting professional training of the Ordre des pharmaciens du Québec (Amendment)

Professional Code

(R.S.Q., c. C-26, s. 94, pars. h and i)

Pharmacy Act

(R.S.Q., c. P-10, s. 10, 1^{er} par., subpar. a)

1. The Regulation respecting professional training of the Ordre des pharmaciens du Québec, approved by Order in Council 1167-86 dated 30 July 1986 and amended by Orders in Council 27-88 dated 13 January 1988 and 45-90 dated 17 January 1990, is further amended by striking out the words "and remains in force until 1 January 1991" in section 25.

2. The Regulation comes into force on the day of its publication in the *Gazette officielle du Québec*.

4878

Draft Regulation

Professional Code

(L.R.Q., c. C-26)

Veterinary Surgeons**— Business of the Bureau, Administrative Committee and general meetings****— Amendments**

Notice is hereby given, in accordance with sections 10 and 11 of the Regulations Act (R.S.Q., c. R-18.1), that the "Regulation respecting the business of the Bureau, the Administrative Committee and general meetings of the Corporation professionnelle des médecins vétérinaires du Québec", made by the Bureau of the Corporation professionnelle des médecins vétérinaires du Québec, the text of which appears below, may be submitted for approval by the Government upon the expiry of 45 days following this publication.

Any person having comments to make is asked to transmit them, before the expiry of the 45 days period, to the Chairman of the Office des professions du Québec, complexe de la place Jacques-Cartier, 320, rue Saint-Joseph Est, 1^{er} étage, Québec (Québec), G1K 8G5. These comments will be forwarded by the Office to the Minister responsible for the administration of legislation concerning the professions; they may also be forwarded to the professional Corporation that made the Regulation as well as to the persons, departments and agencies concerned.

THOMAS J. MULCAIR,
Chairman of the Office des professions du Québec

Regulation respecting the business of the Bureau, the Administrative Committee and general meetings of the Corporation professionnelle des médecins vétérinaires du Québec

Professional Code

(R.S.Q., c. C-26, s. 93, par. a, and s. 94, pars. a and b)

**DIVISION I
BUREAU**

1. The Bureau of the Corporation professionnelle des médecins vétérinaires du Québec consists of 16 directors.

2. A regular meeting of the Bureau shall be held at the date, time and place determined by the Administrative Committee.

A regular meeting of the Bureau shall be called by the secretary of the Corporation by means of a notice of meeting transmitted with the agenda to each member of the Bureau at least 7 days before the date of the meeting.

3. A special meeting of the Bureau shall be called by the secretary by means of a written notice sent with the agenda to each member of the Bureau by mail, telegram, fax or messenger at least 48 hours before the date of the meeting.

At a special meeting, only the matters for which it was called may be discussed.

4. A notice for a meeting of the Bureau shall indicate the date, time and place of the meeting.

5. Notwithstanding the second paragraph of section 2 and section 3, a meeting of the Bureau is deemed to be regularly held if all the members are present and waive the notice of meeting, or where they are not present or physically in attendance at the place

where a meeting of the Bureau is held, all the members take part in a conference call and waive the notice of meeting.

6. The president shall draw up the agenda of every meeting. The agenda of a regular meeting may be changed only with the consent of all members of the Bureau attending the meeting.

7. The first vice-president or, in his absence, the second vice-president shall carry out the duties and exercise the powers of the president where the latter is absent or unable to act.

8. The first vice-president or, in his absence, the second vice-president shall chair the meeting of the Bureau where the president wishes to take part in the discussion.

9. The president shall ascertain whether there is a quorum prior to the beginning of each meeting.

Where the meeting cannot begin for lack of a quorum within 30 minutes following the time mentioned in the notice of meeting, the secretary shall record in the minutes the names of the members of the Bureau then present.

10. Where the president adjourns a meeting of the Bureau for lack of a quorum, the secretary shall record in the minutes the time of adjournment and the names of the members of the Bureau then present.

11. The members of the Bureau shall vote by secret ballot where a member so requests.

The vote shall otherwise be taken by a show of hands.

12. The Bureau sits *in camera*. It may, where the majority of the members in attendance decide otherwise, hold a public meeting or authorize certain persons to attend or take part in a meeting.

13. At the first meeting of the Bureau immediately following the taking of office of the president or of a director, the first matter on the agenda shall be the swearing in of the new member.

The taking of the oath or the making of the solemn affirmation of discretion shall be in the form in Schedule II to the Professional Code (R.S.Q., c. C-26).

14. The secretary of the Corporation shall act as secretary of the Bureau and is not entitled to vote.

15. The president is the only person authorized to speak for the Corporation on matters respecting the business of the Corporation or the practice of the profession.

He may nevertheless designate another person to act as a spokesperson for the Corporation.

16. Every member of the Bureau may express his opinion in public on matters relating to the business of the Corporation or the practice of the profession, if he informs his audience that the ideas he is expressing are his own and are not necessarily shared by the Bureau.

17. A member of the Bureau who is in a conflict of interest over an issue shall disclose the conflict to the Bureau and abstain from voting.

DIVISION II ADMINISTRATIVE COMMITTEE

18. The elected members of the Bureau shall elect annually from among themselves three members to the Administrative Committee and designate from among those three members the first and second vice-presidents.

Another member of the Administrative Committee shall be designated by an annual vote of the members of the Bureau from among the members appointed by the Office des professions du Québec.

Along with the president of the Corporation, those persons compose the Administrative Committee.

19. The secretary of the Corporation shall act as secretary of the Administrative Committee and is not entitled to vote.

20. A regular sitting of the Administrative Committee shall be called by the secretary by means of a notice of sitting sent with the agenda to each member of the Administrative Committee at least 7 days before the date of the sitting.

21. A special sitting of the Administrative Committee shall be called by the president or, at his request, by the secretary, by means of a notice sent by telephone, telegram, fax or messenger to each member of the Administrative Committee at least 48 hours before the date of the sitting.

At a special sitting, only the matters mentioned in the notice of sitting may be discussed.

22. A notice for a sitting of the Administrative Committee shall indicate the date, time and place of the sitting.

23. Notwithstanding sections 20 and 21, a sitting of the Administrative Committee is deemed to be regularly held if all the members are present, or where they are not present or physically in attendance at the place where the sitting is held, all the members take part in a conference call and waive the notice of sitting.

24. The president shall ascertain whether there is a quorum prior to the beginning of each sitting.

Where the sitting cannot begin for lack of a quorum within 30 minutes following the time mentioned in the notice of sitting, the secretary shall record in the minutes the names of the members of the Administrative Committee then present.

25. Where the president adjourns a sitting of the Administrative Committee for lack of a quorum, the secretary shall record in the minutes the time of adjournment and the names of the members of the Administrative Committee then present.

26. Decisions shall be taken by majority vote of the members present, who shall vote by secret ballot where a member so requests. The members of the Administrative Committee shall otherwise vote by a show of hands.

In case of a tie-vote, the chairman of the meeting shall have a casting vote.

27. The Administrative Committee may exercise all the powers granted to the Bureau by the Professional Code and by the Veterinary Surgeons Act (R.S.Q., c. M-8), other than the powers regarding the secretary and the secretary's assistant.

28. In addition to the expenses provided for in the budget, the Administrative Committee may authorize any expense not exceeding \$2 500.

DIVISION III GENERAL MEETINGS

29. The Administrative Committee shall draw up the proposed agenda of a general meeting.

Where a special general meeting is called at the written request of the members of the Corporation in accordance with section 106

of the Code, the agenda shall contain the matters indicated in that request.

30. Any member of the Corporation may request that the Administrative Committee place a matter on the proposed agenda of a general meeting.

Such request must be received in writing at the corporate seat of the Corporation, care of the secretary, at least 7 days before the date of the meeting.

31. A general meeting of the members of the Corporation shall be held at the date, time and place determined by the Bureau.

32. A notice of general meeting shall contain the date, time, place and proposed agenda of that meeting.

33. The secretary shall call a general meeting by means of a notice of meeting sent by mail at least 30 days before the date of the meeting to each member of the Corporation at the address entered on the roll.

The secretary shall likewise, within the same time limit, send the notice of general meeting, and any other document sent to the members of the Corporation for the purpose of that meeting, to each director appointed under section 78 of the Code.

In the case of a special general meeting, the time limit mentioned in the first paragraph shall be at least five days.

34. In addition to the manner of calling meetings prescribed in the first paragraph of section 33, the secretary may call the annual general meeting by means of a notice of general meeting published or inserted in a publication which the Corporation sends at least 30 days before the date of the meeting to each of its members at the address entered on the roll. The notice shall measure at least 100 square centimetres and appear under the heading "NOTICE OF ANNUAL GENERAL MEETING".

In that case, at least 30 days before the date of the meeting, the secretary shall send a copy of the publication in which the notice of general meeting is published or inserted, as well as any other document sent to the members of the Corporation for the purpose of the meeting, to each director appointed under section 78 of the Code.

35. The quorum of a general meeting of the Corporation is 30 members.

36. The president shall ascertain whether there is a quorum prior to the beginning of each meeting.

Where the meeting cannot begin for lack of a quorum within 30 minutes following the time indicated in the notice of general meeting, the secretary shall record in the minutes the names of the members of the Corporation then present.

37. During a special general meeting, only the matters mentioned in the agenda shall be discussed.

38. Decisions shall be taken by majority vote of the members present, who shall vote by a show of hands.

DIVISION IV REMUNERATION OF DIRECTORS

39. For each meeting of the Bureau attended, an elected director shall receive the same indemnities as those fixed for the members of the Corporation's committees.

DIVISION V MISCELLANEOUS

40. The corporate seat of the Corporation is situated in the Montérégie region, within the meaning of Order in council 2000-87 dated 22 december 1987 amended by Orders in council 1399-88 dated 14 september 1988 and 1389-89 dated 23 August 1989.

41. The seal of the Corporation contains in the centre, the year of incorporation (1902) and the initials of the Ordre de la Corporation professionnelle des médecins vétérinaires du Québec (C.P.M.V.Q.) and on the circumference, the words "Corporation professionnelle des médecins vétérinaires du Québec".

42. The secretary of the Corporation shall draw up and sign the minutes of each meeting of the Bureau, of the Administrative Committee and of the general meeting.

The minutes shall be adopted by a resolution passed during the sitting or at a subsequent sitting, and the person chairing the meeting shall sign the minutes.

The secretary is dispensed from reading the minutes before their adoption provided he has forwarded a copy thereof to each member at the same time as the notice of meeting and that it has not been decided otherwise by the Bureau, the Administrative Committee or the general meeting, as the case may be.

43. Where none of the rules of procedure in the Code or in this Regulation provide a solution to a particular situation, the rules in Procédure des assemblées délibérantes by Victor Morin, 4^e édition, 1987, shall apply, *mutatis mutandis*.

DIVISION VI FINAL

44. This Regulation replaces the Regulation respecting the business of the Bureau and the general meetings of the Ordre des médecins vétérinaires du Québec (R.R.Q., 1981, c. M-8, r. 2).

45. This Regulation comes into force on the fifteenth day following the date of its publication in the *Gazette officielle du Québec*.

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Decisions

Decision 5251, December 18, 1990

An Act respecting the marketing of agricultural, food and fish products
(1990, c. 13)

Lobsters fishers, Magdalen Islands — Referendum

Please take note that, by its decision 5251 of December 18, 1990, the Régie des marchés agricoles et alimentaires du Québec took the following By-law respecting the Magdalen Islands lobsters fishers referendum.

Take further note that this by-law is withdrawn from the application of chapters III and IV of the Regulations Act (R.S.Q., c. R-18.1) by the effect of section 203 of an Act respecting the marketing of agricultural, food and fish products.

Régie des marchés agricoles et alimentaires du Québec

CLAUDE RÉGNIER,
Secretary

By-law concerning the Îles-de-la-Madeleine lobsters fishers referendum

An Act respecting the marketing of agricultural, food and fish products
(1990, c. 13, s. 54)

CHAPTER I

OBJECT, DEFINITIONS AND REQUIREMENT

1. This by-law specifies the requirements that must be fulfilled by every lobster fisher who wants to be considered concerned in the referendum on the joint marketing plan proposed by the Magdalen Islands Fishers Owners Association.

2. The following expressions mean:

"concerned fisher": anyone that is holding a commercial permit for lobster fishing in zone 22;

"related product": every lobster fished in zone 22 and unloaded anywhere in Québec;

"zone 22": the fishing area established by the Atlantic Fisheries Regulation 1985, passed under the Fisheries Act (R.S.C. 1985, c. F-14).

3. Each concerned fisherman must be on the final list prepared according to the provisions of this by-law to have the right to vote.

4. To be on the final list, a person must:

(a) be a concerned fisher or

(b) have obtained from a concerned fisher since the last fishing season, a lobster fishing permit in zone 22 and intend to use it.

CHAPTER II

DRAWING THE LIST OF CONCERNED FISHERS

DIVISION I

PRELIMINARY LIST

5. The Régie draws a preliminary list using informations given by Fisheries and Oceans Canada and showing the name and

address of each concerned fisher, the weight of lobsters fished in 1988, 1989 and 1990 and the average of these weights.

6. Anyone may consult the preliminary list by going, during usual business hours, from 9 h 30 A.M. Monday January 14, 1991 to 4 h 00 P.M. Tuesday January 22, 1991 at the following places:

(a) the office of the Régie des marchés agricoles et alimentaires du Québec located at 201 Cremazie Blvd East, fifth floor, in Montréal;

(b) the office of the Régie des marchés agricoles et alimentaires du Québec located at 1020, de l'Église Rd, seventh floor, in Ste. Foy;

(c) The office of the Regional fisheries service of the Ministère de l'agriculture, des pêcheries et de l'alimentation du Québec (MAPAQ) located in Cap-aux-Meules.

Only a concerned fisher may check the part of the list indicating the weights of lobsters he fished in 1988, 1989 and 1990.

7. The Régie must published in a French language newspaper and in an English language one, both widely distributed on the territory of the Îles-de-la-Madeleine, a notice announcing the referendum and when and where the preliminary list could be consulted.

8. Upon request, the Régie will send a copy of the preliminary list to any group or organization of persons that could be concerned by the referendum.

DIVISION II

CORRECTING THE PRELIMINARY LIST

9. The Régie shall appoint a revisor at the Fisheries regional office of the MAPAQ in Grindstone that will be authorized to verify and correct the preliminary list when asked upon under sections 10 and 12. He may be helped in his work by anyone he may choose.

If necessary, he may recommend to the Régie to correct the list in accordance with his personal knowledge of the concerned fishers.

10. Any person that fulfills the requirements to be on the preliminary list but is not and that wants to be on the final list and vote, may request to be on the list by going in person before 4 h 00 P.M. January 22, 1991 during usual business hours at the Fisheries regional office of the MAPAQ in Cap-aux-Meules.

11. The petitioner must bring with him all the necessary documents that sustain his right to be on the final list and vote.

12. Any person whom the name is on the list and wants it to be withdrawn because being no more a concerned fisher and any person who challenges the right of a person to be on this list must do so in the way and delay prescribed in section 10.

13. The revisor has to inform immediately in writing the person concerned by a petition given under section 12.

14. Any person aimed by a striking off request of his name from the preliminary list may challenge it in going, within 36 hours of the advice given accordingly to section 13, to the Fisheries service office of the MAPAQ in Cap-aux-Meules and giving to the revisor his grounds for dispute.

15. As soon as possible after receiving a dispute, the revisor makes investigation with all possible dispatch to fix grounds of it. He passes on the result of his enquiry to the concerned person and corrects the preliminary list accordingly.

16. The Régie may, in any time, correct the name or the address of a fisher on the preliminary list when there is a clerical error.

17. Any concerned fisher or any association of concerned fishers may consult name and address of persons on the preliminary list and take note of the corrections on this list.

DIVISION III FINAL LIST

18. After doing all the necessary corrections to the preliminary list, the Régie shall publish a final list of the concerned fishers on January 28, 1991.

19. On the final list, there is the name and address of each concerned fisher and the average weight of lobsters each one had fished in 1988, 1989 and 1990.

For the persons who fished during two years out of three, the list indicates the average of these two years. For the persons who fished during one year only, the list indicates this weight. For a new fishing permit holder, the list indicates the average weight that should have been attributed to the grantor.

20. This list should be considered complete and final for the purposes of the present referendum. The Régie gives a copy of it to the requesting Association and keeps another in its offices in Montréal and Ste. Foy, for consultation during normal business hours until February 14, 1991.

CHAPTER III VOTING ORGANISATION

DIVISION I VOTING POOLS

21. Voting pools are located:

- (a) in the new Grindstone Civic Center, Cap-aux-Meules;
- (b) in the Âge d'or du Bassin Room, Bassin;
- (c) in the Local Community Service Center service point in Old Harry;
- (d) in the Entree Island Community Hall, Île-d'Entrée.

22. The Régie places the name of each concerned fisher on the final list in the nearest voting pool from his or her residence. The Régie prepares a distinct list of concerned fishers for each voting pool.

DIVISION II AGENT FOR THE RÉGIE

23. The Régie appoints an agent to be responsible of each of the voting pool; the agent may ask any person to help him performing his duties.

24. The agent of the Régie is responsible of the voting procedure in the voting pool where he is appointed.

25. The agent has to comply with the rules of conduct given by the Régie to perform the duties stipulated in this by-law.

26. The Régie may, in any time and for any reason, replace an agent.

DIVISION III VOTING FURNITURE

27. In due time, the Régie shall send to each of its agents voting ballots and the part of the final list for the voting pool he is responsible.

28. The Régie shall print voting ballot so that each one of the concerned fishers may clearly give his opinion on the proposed joint marketing plan.

On the ballot, there is the name of the proposed joint marketing plan and the following inscriptions:

"Je suis CONTRE le projet de plan"

"I am AGAINST the proposed joint marketing plan"

"Je suis POUR le projet de plan"

"I am IN FAVOR OF the proposed joint marketing plan"

Volume moyen:

Average Weight:

29. All the ballots are of the same form and as similar as it is possible to be.

30. Every ballot has a counterfoil with a dotted line so it will be easy to separate them.

31. Each counterfoil is numerated on the back.

32. The Régie takes necessary measures to send to each agent enough ballots for his voting pool. The ballots are in booklets where the counterfoils are successively numerated.

33. Each ballot box shall be built in solid materials and kept closed during voting time. There should be, on top of it, a small opening so it could be easy to put in ballots but impossible to take them out. This opening should be sealed with an adhesive tape but during voting time.

CHAPTER IV THE VOTE

DIVISION I VOTING PROCEDURE

34. The Régie shall send, by first class mail, a copy of the proposed joint marketing plan and of the voting procedure to every person on the final list. It will precise the dates and voting pool where the concerned fisher could vote.

35. No concerned fisherman may exercise his right of vote unless it is accordingly to the present by-law and in the voting pool indicated according to section 34.

36. To vote, the concerned fisher must go in person at anyone of the dates and hours stipulated in section 37 in the voting pool indicated on the notice he received from the Régie according to section 34.

37. The vote will be on February 12, 13 and 14, 1991 from 9 h 30 A.M. to Noon and from 1 h 30 P.M. to 4 h 00 P.M. in place indicated in section 21. For the persons having to vote in Île-d'Entrée voting pool, the vote will be February 13, 1991 from 1 h 30 P.M. to 4 h 00 P.M.

38. When entering into a voting pool, the concerned fisher must declare his name and address to the agent, or his representative, and if asked to do so, show any relevant identity paper or any document that could prove his identity, to the satisfaction of the agent.

The agent makes himself sure of the identity of the fisher and check if his name is on the final list.

39. The fisher has to vote as quickly as possible and leave after the voting pool. If he is taking too long time to vote, he may be expelled and the agent then write the incident on the control list.

40. The voting is to be given secretly.

The voting pool must be arranged in such a manner that nobody can see the choice of the fisher and guarantee the secrecy of his vote.

41. Only the agent or his representant, if any, and the concerned fisher, during the necessary time to exercise his right of vote, may be near the voting table or the ballot box. If it is possible to do so, all other persons should be kept out of the room where the vote is going on.

DIVISION II EXERCISING THE RIGHT TO VOTE

42. Any person who wants to vote cannot do so unless his or her name is on the final list of the concerned fishers.

43. A fisher may give only one vote.

44. Corporations are on the lists under their corporative name. They exercise their right to vote by a mandatary who has to give to the agent a resolution to that effect before receiving the voting ballot in the name of the corporation. The agent puts the resolution on annex to the control list.

45. Any fisher on the final list of a voting pool under the name of which another person had vote may exercise his right to vote, receive a ballot and vote after clearly justifying his or her identity and giving oath to that effect. The agent marks then on the list that the fisher had voted after someone else voted under his or her name and had given requested oath.

46. Immediately before giving a ballot to a person who may vote in his pool, the agent writes down on the ballot the weight inscribed on the final list for this person and the initials of his name on the back of the ballot on such manner that they can be seen when it is folded. The agent then invites the fisher to check these initials and that the ballot is clean.

47. Only the agent may inform a fisher on the procedure to write his or her choice on the ballot. That must be done openly and without any indication nor suggestion as to the choice to be marked down on the ballot.

48. After having checked the ballot received, the fisher has to go immediately at the proper location to vote. There, with a pen or a pencil, he or she writes in the previous space to do so on the ballot his or her choice against or in favor of the proposed joint marketing plan. After that, he or she folds the ballot so that the initials on the back could be seen without unfolding it and he or she comes back at the table near the ballot box.

49. Without unfolding it, the fisher gives the ballot to the agent who will check his initials and give it back to the fisher who will have to put it in the ballot box.

If the fisher gives to the agent a ballot different of the one received, the agent must void it by writing the word "void" on it with the initials of his name.

50. No person can get out of the voting pool with the ballot he or she received.

51. Any fisher who, inadvertently marked, dirtied or torn the ballot received so it cannot correctly be used, may replace it by giving back to the agent. The agent voids the first ballot, writes the word "void" on it and keeps it for control.

52. As soon as a fisher put a ballot in the ballot box, the agent marks it on the control list.

53. After the closing of the voting pool, the agent seals the opening on the top of the ballot box.

From the closing of the voting pool until the counting of the vote, the agent has the ballot box, ballots and the control list of fishers in a safe place under his responsibility.

DIVISION III KEEPING GOOD ORDER

54. It is forbidden to anybody to obstruct the liberty of the vote near or in a voting pool.

55. The agent and all persons he may designated for that purpose have to make the entering of each fisher easy in the voting pool and take care he or she is not obstructed nor molested in or near the voting pool.

56. If the agent sees that a person put in the ballot box something different of the ballot received, he has to record it by writing and inform the Régie immediately. The Régie may, under the circumstances, temporarily suspend the vote and ask to the agent to check what has been put in the box.

Under the circumstances, the voting will continue after the agent have put a new seal closing the box or the Régie will void the vote for the voting pool. In this case, the Régie proceeds according to section 59.

57. If the agent sees that the seal on the top of the ballot box or closing it has been broken or taken away, he has to record it by writing and inform the Régie immediately. This one may, under the circumstances, void the vote for this voting pool and then proceed according to section 59.

58. The agent of the Régie may, in any time, suspend the vote in a voting pool if he considers that, by any event, fishers cannot freely exercise their voting right or if, in his opinion, fishers are unduly influenced by persons or events in or near the voting pool until these events stop or public order is restored. He may also ask to a police or a security officer to intervene to restore public order and, if he judges it appropriate, expel any person he considers to be responsible of disorder or preventing the good order of the voting.

59. If the vote is suspended, the agent puts an appropriate sign to that effect at the main door and at the door of the room of the voting pool and immediately does a verbal report to the Régie. The Régie may then void the vote for the concerned voting pool; in that case the vote will be taken on a later date.

In that case, the Régie rules the date and procedure of the referendum upon the concerned fishers following, as possible it may be, the same procedure than in this by-law. The Régie must then use the same list of fishers for the purposes of this vote.

60. It is forbidden to anybody to intervene or try to intervene upon a fisher who is preparing his or her ballot nor to try in any other way to know, in the voting pool, the opinion he or she is about to put on the ballot.

61. After a fisher has a ballot in his or her hands, it cannot be shown to anybody in a way of letting know his or her opinion on the proposed joint marketing plan.

62. It is forbidden to anybody to, directly or indirectly lead a fisher having prepared a ballot to show it or to let it see in a way of letting know his or her opinion to anybody else.

63. It is forbidden to communicate to anybody nor at any time informations get in a voting pool about the vote a fisher intended to give or gave nor about the weight written down on the ballot given to this fisher.

64. It is forbidden to anybody to furnish or to give to anyone a sign, a poster, a banner, a flag with intent to make them serve or wear in the voting pool on the voting days as banner or flag of any wearing person or group in favor or against the proposed joint marketing plan.

65. It is forbidden to anybody to furnish or to give to anyone a ribbon, a rosette or any similar object with the intent to make them serve or wear in the voting pool on the voting days as a sign to class persons wearing it in favor or against the proposed joint marketing plan.

CHAPTER V COUNTING THE VOTES

66. Voting pool is closed and vote ended at 4 h 00 P.M. on February 14, 1991. Only the agent and the persons he designated to assist him may stay in the place; other persons have to leave the room where the voting was going on.

67. After the ending of the vote, the agent puts all the torn or spoiled ballot in an envelope and seals it. Then he counts the fishers who, following the inscriptions on the control list, exercised their right to vote, certifies this number by writing the following words immediately after the last name on the list "— pêcheurs ont voté dans ce bureau de scrutin lors de ce référendum" and puts his signature on it.

68. Then, in the presence of a person designated by the Régie, the agent opens the ballot box and counts the votes in favor of and against the proposed joint marketing plan.

69. When counting the vote, the agent must void all ballots:

- (a) he did not give to the voter;
- (b) which size or form is different of those of the ballots used for the referendum;
- (c) showing more than one vote;
- (d) showing no vote;
- (e) on which the will of the fisher is not clearly written;
- (f) where the weight of lobsters fished cannot be clearly fixed.

70. The agent has to decide, while counting the vote, ballots that have to be kept and those that have to be void.

If he decides to void a ballot, the agent writes down his reasons on the back and put it in a separate envelope.

71. Then the agent counts the ballots giving the choice of the fishers; he writes down, in three copies, a report giving the number of fishers who were entitled to vote in this voting pool, the number of those who voted, the number of votes in favor and against the proposed joint marketing plan, the weight of lobsters fished in favor or against the proposed joint marketing plan and the number of voided ballots. The agent and the person who assisted him in the counting of the ballot have to sign the statement to attest its accuracy.

72. The agent puts then, in separate envelopes, valid ballots, void ballots and unused ones.

He seals these envelopes after writing the content on each of them. He then puts his signature on the seal, partly on the seal and partly on the envelope.

73. After the counting of the votes, the agent writes and sign a declaration attesting the following of the procedure set up in the present by-law, that he counted all valid ballots, that the report is exactly the votes given at the voting pool and that he received all the votes.

74. The agent attaches the declaration and the ballots counting report to the control list that he puts in an envelope with the ballots and the control list.

75. The agent seals this envelope with bands of adhesive paper after signing it.

76. The agent gives this envelope to the secretary of the Régie or his representant at the Fisheries regional office of the MAPAQ in Grindstone.

CHAPTER VI COUNTING AND PUBLICATION OF THE REFERENDUM

77. When he receives the envelopes, the secretary of the Régie or his representant opens them and counts the total votes given by the fishers as they are indicated in the reports of the agents; he gives a report of the result to the Régie so the result of the referendum could be publicised as soon as possible.

78. The secretary of the Régie keeps in a safe place the ballots, reports and declarations of the agents. The Régie may destroy these documents six months after the date of the vote.

CHAPTER VII COMING INTO FORCE

79. This by-law comes into force upon the day of its publication in the *Gazette officielle du Québec*.

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Port de retour garanti
Gazette officielle du Québec
1279, boulevard Charest ouest
Québec
G1N 4K7

ISSN 0703-5721

